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Parliamentary History.

VOL. XVI.

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Published under the Superintendence of

T. C. HANSARD,

PETERBOROUGH COURT, FLEET STREET,

By whom all Communications for this Work, and also for the "PARLIAMENTARY DEBATES," will be attended to.

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THE

Parliamentary History

OF

ENGLAND,

FROM

THE EARLIEST PERIOD

TO

THE YEAR

1803.

FROM WHICH LAST-MENTIONED EPOCH IT IS CONTINUED DOWNWARDS IN THE WORK ENTITLED, "THE PARLIAMENTARY DEBATES."

VOL. XVI.

A. D. 1765—1771.

LONDON:

PRINTED BY T. C. HANSARD, PETERBOROUGH-COURT, FLEET-STREET:

FOR LONGMAN, HURST, REES, ORME, & BROWN; J. RICHARDSON; BLACK, PARRY, & CO.; J. HATCHARD; J. RIDGWAY; E. JEFFERY; J. BOOKER; J. RODWELL; CRADOCK & JOY; R. H. EVANS; E. BUDD; J. BOOTH; AND T. C. HANSARD.

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PREFACE.

THE present Volume brings the Parliamentary History of this Country down to the Year 1771; and, like the preceding Volumes, contains many interesting Debates which have never found their way into any former Collection. To enumerate them would be to exceed the limits of a Preface, but the Editor begs leave to call the particular attention of the Subscribers to the following: viz.

1766. Feb. 10. Debate in the House of Lords, on the Power of the King to make Laws and Statutes of sufficient force and validity to bind the Colonies and People of America. This Debate is printed from a Manuscript in the Hardwicke Collection; and contains the great Lord Camden's first Speech in the House of Peers.

1768. Dec. 15. Minute of Proceedings in the House of Lords, respecting the Discontents in America. From the Hardwicke Papers.

1767. Nov. 24. Debate in the Commons on the Address of Thanks in Answer to the King's Speech.

1770. Jan. 9. Debate in the Commons on the Address of Thanks in Answer to the King's Speech.

Jan. 22. Debate in the Commons on the Choice of a Speaker.

Jan. 24. Debate in the Commons on a Motion for the Redress of Grievances previous to granting a Supply.

Jan. 25. Debate in the Commons on a Motion "That in Matters of Election this House is bound to judge according to the Law of the Land, &c."

Feb. 12. Debate in the Commons on a Motion to disqualify Revenue Officers from voting at Elections.

Feb. 28. Debate in the Commons on the State of the Civil List.

March 5. Debate in the Commons on a Motion to repeal the American Tea-Duty Bill.

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March 15. Debate in the Commons on the Remonstrance of the City of London to the King.

Feb. 28. Debate in the Commons on Mr. George Grenville's Bill for regulating the Trials of Controverted Elections.

May 3. Debate in the Commons on the sudden Prorogation of the Irish Parliament.

May 4. Debate in the Lords on the Earl of Chatham's Motion touching the King's Answer to the Remonstrance of the City of London.

May 18. Debate in the Lords on the Duke of Richmond's Resolutions relating to the Disorders in America.

Nov. 13. Debate in the Commons on the Address of Thanks in answer to the King's Speech.

Nov. 22. Debate in the Lords on the Duke of Richmond's Motion respecting the Seizure of Falkland's Island.

Nov. 27. Debate in the Commons on Mr. Constantine Phipps's Motion respecting the Power of the Attorney General to file Informations Ex-Officio.

Dec. 6. Debate in the Commons on Mr. Serjeant Glynn's Motion for a Committee to enquire into the Administration of Criminal Justice, and the Proceedings of the Judges in Westminster Hall, particularly in Cases relating to the Liberty of the Press, and the Constitutional Power and Duty of Juries.

LONDON, 5, *Panton Square*,
June 24, 1813.

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Archbishops.

1758.	Archbishop of Canterbury	Thomas Secker.
1768.	- - - - - - - - - - - -	Hon. Frederick Cornwallis.
1761.	- - - - - - - - York	Robert Drummond.

Bishops.

1761.	Bishop of St. Asaph	Richard Newcombe.
1769.	- - - - - - - - - -	Jonathan Shipley.
1756.	- - - - - Bangor	John Egerton.
1768.	- - - - - - - - - -	John Ewer.
1743.	- - - - - Bath and Wells	Edward Willes.
1761.	- - - - - Bristol	Thomas Newton.
1754.	- - - - - Chichester	Sir William Ashburnham, bart.
1749.	- - - - - Coventry and Litchfield	Hon. Frederick Cornwallis.
1768.	- - - - - - - - - -	Hon. John Egerton.
1766.	- - - - - St. David's	Robert Lowth.
1766.	- - - - - - - - - -	Charles Moss.
1754.	- - - - - Ely	Matthias Mawson.
1761.	- - - - - Exeter.....	Frederick Keppel.
1760.	- - - - - Gloucester	William Warburton.
1746.	- - - - - Hereford	Lord James Beauclerk.
1761.	- - - - - Landaff	John Ewer.
1768.	- - - - - - - - -	Jonathan Shipley.
1769.	- - - - - - - - -	Shute Barrington.
1761.	- - - - - Lincoln	John Green.
1764.	- - - - - London	Richard Terrick.
1761.	- - - - - Norwich	Philip Yonge.
1766.	- - - - - Oxford.....	Robert Lowth.
1764.	- - - - - Peterborough	Robert Lamb.
1769.	- - - - - - - - - -	John Hinchcliffe.

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1756. Bishop of Rochester ..... Zachariah Pearce.
1766. - - - - - Salisbury ..... John Hume.
1761. - - - - - Winchester ..... John Thomas.
1759. - - - - - Worcester ..... James Johnson.
1762. - - - - - Carlisle ..... Charles Lyttelton.
1768. - - - - - - - - - - ..... Edmund Law.
1752. - - - - - Chester ..... Edmund Keene.
1752 - - - - - Durham ..... Richard Trevor.

LORD HIGH CHANCELLORS.

1764. Jan. 16. Robert, Earl of Northington.
1766. July 30. Charles, Lord Camden.
1770. Jan. 17. Hon. Charles Yorke. Created Lord Morden; but died next day, before the Seals were put to his Patent of Peerage.
Jan. 20. Sir Sidney Stafford Smythe, knt. one of the Barons of the Exchequer; Hon. Henry Bathurst, one of the Justices of the Common Pleas; and Sir Richard Aston, one of the Justices of the King's Bench; Commissioner of the Great Seal.
1771. Jan. 23. Henry, Lord Apsley. Succeeded as Earl Bathurst in 1775.

PRINCIPAL SECRETARIES OF STATE.

1763. Sept. 9. John, Earl of Sandwich, vice Lord Egremont.
1765. July 12. Augustus Henry, Duke of Grafton, vice Lord Halifax.
Hon. Henry Seymour Conway, vice the Earl of Sandwich.
1766. May 23. Charles, Duke of Richmond, vice the Duke of Grafton.
Aug. 2. William, Earl of Shelburne, vice the Duke of Richmond.
1768. Jan. 20. Thomas, Viscount Weymouth, vice the Hon. Henry Seymour Conway.
Willes, Earl of Hillsborough, for the Colonies.
Oct. 21. William Henry, Earl of Rochford, vice the Earl of Shelburne.
1770. Dec. 19. John, Earl of Sandwich, vice Lord Weymouth.
1771. Jan. 22. George, Earl of Halifax, vice the Earl of Sandwich.

SPEAKERS OF THE HOUSE OF COMMONS.

1761. Sir John Cust, bart.
1768. Sir John Cust, bart. On account of bad health, he resigned the Chair, January 17, 1770; and, on the 22nd of the same month,
1770. Sir Fletcher Norton, knt. was chosen in his room.

COMMISSIONERS FOR EXECUTING THE OFFICE OF LORD HIGH TREASURER OF ENGLAND.

1765. July 13. Charles, Marquis of Rockingham
William Dowdeswell, esq. Chancellor of the Exchequer.
Lord John Cavendish.
Thomas Townshend, esq.
George Onslow, esq. (afterwards Lord Cranley and Lord Onslow) now Earl of Onslow.

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1766.	Aug. 2.	Augustus Henry, Duke of Grafton.
		Hon. Charles Townshend, Chancellor of the Exchequer.
		Thomas Townshend, esq. (afterwards Lord Sydney).
		George Onslow, esq.
		Pryse Campbell, esq.
1767.	Sept. 12.	William, Lord Mansfield, Lord Chief Justice of the King's Bench, Chancellor of the Exchequer.
1767.	Dec. 1.	Augustus Henry, Duke of Grafton.
		Frederick, Lord North, Chancellor of the Exchequer.
		George Onslow, esq.
		Pryse Campbell, esq.
		Charles Jenkinson, esq.
1768.	Dec. 31.	Augustus Henry, Duke of Grafton.
		Frederick, Lord North, Chancellor of the Exchequer.
		George Onslow, esq.
		Charles Jenkinson, esq.
		Jeremiah Dyson, esq.
1770.	Feb. 10.	Frederick, Lord North, Chancellor of the Exchequer.
		George Onslow, esq.
		Charles Jenkinson, esq.
		Jeremiah Dyson, esq.
		Charles Townshend, esq.

MASTERS OF THE ROLLS.

1764.	Dec. 4.	Sir Thomas Sewell, knt.

ATTORNEYS GENERAL.

1763.	Dec. 16.	Sir Fletcher Norton, knt. afterwards Lord Grantley.
1765.	Aug. 25.	Hon. Charles Yorke.
1766.		William de Grey, esq. afterwards Lord Walsingham.
1771.	Jan. 23.	Edward Thurlow, esq. afterwards Lord Thurlow.

SOLICITORS GENERAL.

1763.	Nov.	William de Grey, esq.
1766.	Aug.	Edward Willes, esq.
1767.	Dec. 23.	Joseph Dunning, esq.
1770.	March.	Edward Thurlow, esq.
1771.	Jan. 23.	Alexander Wedderburn, esq. afterwards Lord Loughborough.

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Parliamentary History.

5 GEORGE THE THIRD, A. D. 1765.

FOURTH SESSION OF THE TWELFTH PARLIAMENT OF GREAT BRITAIN.

THE King's Speech on Opening the Session.] January 10, 1765. His Majesty came to the House of Peers and opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen;

"The situation of affairs both at home and abroad has enabled me to allow you that recess which has been usual in times of public tranquillity.

"I have now the satisfaction to inform you, that I have agreed with my good brother the king of Denmark, to cement the union which has long subsisted between the two crowns, by the marriage of the prince royal of Denmark with my sister the princess Caroline Matilda; which is to be solemnized as soon as their respective ages will permit.

"I observe with pleasure, that the events which have happened in the course of the last year give us reason to hope for the duration of that peace which has been so happily established, and which it is my resolution strictly to maintain. The courts of France and Spain have given me fresh assurances of their good dispositions. The future quiet of the empire has been confirmed, by the unanimous choice of a successor to the imperial dignity; and the peaceable election of the king of Poland has prevented those fatal consequences, which upon similar occasions, have so frequently been destructive to the repose of Europe. I am happy, therefore, to meet my parliament at a time when no foreign disturbances interrupt their consultations for the internal good order and prosperity of my kingdoms.

"Gentlemen of the House of Commons;

"I shall ask of you, for the current service of the year, no other Supplies than such as are necessary for those establishments which have already met with your approbation; and I will order the proper estimates for this purpose to be laid before you.

"I must, however, earnestly recommend to you the continuance of that attention which you have hitherto shewn, for the improvement of the public revenue, and the diminution of the national debt. For these desirable and necessary ends, I am persuaded that you will pursue every proper measure which the state of my dominions, and the circumstances of the times may require.

"My Lords, and Gentlemen;

"The experience which I have had of your former conduct, makes me rely on your wisdom and firmness, in promoting that obedience to the laws, and respect to the legislative authority, of this kingdom, which is essentially necessary for the safety of the whole; and in establishing such regulations as may best connect and strengthen every part of my dominions, for their mutual benefit and support.

"The affection which I bear to my people excites my earnest wishes, that every session of parliament may be distinguished by some plans for the public advantage, and for their relief from those difficulties which an expensive war has brought upon them. My concurrence and encouragement shall never be wanting, where their welfare is concerned: and I trust that, for the attainment of that great object, you will proceed with temper, unanimity, and dispatch."

The Lords' Address of Thanks.] His

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Majesty having retired, their lordships agreed upon the following Address:

"Most Gracious Sovereign;

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, return your Majesty our humble thanks, for your most gracious Speech from the throne.

"We acknowledge with gratitude your Majesty's goodness, in acquainting us with your having agreed to a marriage between the prince royal of Denmark and your Majesty's sister the princess Caroline Matilda, to be solemnized as soon as their respective ages will permit. And we beg leave to assure your Majesty of our entire satisfaction in the choice of this alliance; which, under the blessing of Providence, cannot fail of cementing and strengthening the union which has so long subsisted between the crowns of Great Britain and Denmark, and thereby conducing to the support of the Protestant cause.

"We sincerely rejoice in those events of the last year, which seem to promise a continuance of the peace so happily established; and we receive with gratitude the declaration which your Majesty is graciously pleased to make, of your resolution strictly to maintain it. We hope that the fresh assurances which the courts of France and Spain have given of their good dispositions, the quiet of the empire confirmed by the unanimous choice of a successor to the imperial dignity, and the peaceable election of the king of Poland, will contribute to the security of the general tranquillity of Europe, and that it will long remain fixed on a firm and lasting basis. And we beg leave to assure your Majesty, that, as the present undisturbed state of affairs abroad affords so favourable an opportunity for the deliberations of your parliament on such objects as may be most conducive to the internal good order and prosperity of these kingdoms, nothing shall be wanting in care and attention on our part, which may promote the welfare and honour of our country.

"Permit us, Sir, to offer to your Majesty our humble acknowledgments, for the gracious approbation which your Majesty is pleased to declare of our former conduct; and to give your Majesty the strongest assurances, that we will firmly persist in exerting our zealous endeavours to promote due obedience to the laws, and reverence to the legislative authority, of this kingdom; and to establish such regulations as shall appear to be most conducive to the mutual benefit and support of all your Majesty's dominions.

"With hearts full of duty and affection, we offer our unfeigned thanks to your Majesty, for your paternal care and tender concern for the difficulties which have been brought on your subjects by a long and burdensome war, and for your royal wishes that your parliament may take every occasion for their relief. Animated with these sentiments, we assure your Majesty that we will proceed with that temper, unanimity, and dispatch, which your Majesty is pleased to recommend to us, in the pursuit of those great and important objects to which your Majesty has directed our attention."

The King's Answer.] His Majesty returned this Answer:

"My Lords,

"I thank you for this dutiful and affectionate Address. The satisfaction which you express, on the intended marriage of my sister, the princess Caroline Matilda, is particularly agreeable to me: and I accept with pleasure the assurances you give me of your zealous endeavours for the advancement of the prosperity of my kingdoms, and the happiness of my people, which I shall ever have most sincerely at heart."

The Commons' Address of Thanks.] The Commons being returned to their House, lord Warkworth moved the following Address, which was agreed to *nem. con.*

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, beg leave to return your Majesty the most humble thanks of this House, for your most gracious Speech from the throne.

"Permit us, at the same time, to offer to your Majesty our dutiful congratulations upon the marriage agreed to be solemnized between the Prince Royal of Denmark and her royal highness the princess Caroline Matilda, as soon as their respective ages will permit: which happy union cannot but be most pleasing to your faithful Commons, as it must tend to cement and strengthen the ancient alliance between the crowns of Great Britain and Denmark, and thereby add security to the Protestant religion.

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"We beg leave also to declare our satisfaction at those events of the last year, which promise the continuance of the peace so happily established and maintained by your Majesty's wise and steady conduct; and to express our hopes that the fresh assurances, which have been given by the courts of France and Spain, of their good dispositions, the unanimous choice of a successor to the imperial throne, and the undisturbed election of the king of Poland, will secure and confirm the general tranquillity of Europe. In this situation, we think it our duty to give our particular attention to such regulations, as will most effectually promote the internal good order and prosperity of these kingdoms.

"Your Majesty may be assured that we will, with cheerfulness and dispatch, raise such supplies as shall be found necessary for the current service of the year. And being thoroughly sensible of your Majesty's paternal concern for the relief and welfare of your people, in recommending to us the improvement of the public revenue, and the diminution of the national debt, on which the future safety of Great Britain must depend, we will apply ourselves, with the utmost zeal and assiduity to carry into execution every proper measure which may contribute to these great and salutary purposes, and which the state of your Majesty's dominions, and the circumstances of the times, shall require.

"We acknowledge, with the liveliest gratitude, the gracious expressions of your Majesty's tender affection, and of your constant care, for the mutual benefit and support of all your subjects. And we assure your Majesty, that, animated with these sentiments, we will endeavour to deserve the confidence which your Majesty is pleased to repose in us, by pursuing every plan which shall appear to us to be calculated for the public advantage; and will proceed therein with that temper and firmness, which will best conciliate and insure due submission to the laws, and reverence to the legislative authority of Great Britain."

The King's Answer.] To which Address his Majesty returned this Answer:

"Gentlemen,

"I return you my thanks for this very dutiful and affectionate Address: and I receive, with the greatest pleasure, your congratulations on the marriage agreed to be solemnized between the Prince Royal of Denmark, and my sister, the princess Caroline Matilda. My constant endeavour shall be employed to preserve the public tranquillity, to secure the rights, and promote the happiness of my people."

Resolutions of the Commons relating to the Poor Laws.] January 22. Mr. Blackstone reported from the committee, appointed to revise and consider the laws relating to the poor of that part of Great Britain called England: and to report their opinion thereupon to the House, as to the defects, the repeal, or amendment, of the said laws, and as to making of any new provisions or regulations for the better relief, employment, and settlement, of the poor; that the committee had considered the matters to them referred; and had come to the following resolutions:

Resolved, 1. "That it is the opinion of this committee, That the laws relating to the poor are, in many respects, defective. 2. That the present method of regulating the poor by annual parochial officers, in separate parishes and townships, is, in general, ineffectual for their proper relief and employment. 3. That the present methods of applying the sums raised for the relief of the poor are, in general, grievous to their respective parishes, and of pernicious effects to the public. 4. That the employment of the able poor, in such works as may be suited to their strength and capacity, will be very beneficial to the kingdom. 5. That the appointment of a competent number of districts throughout England and Wales, by authority of parliament, with proper powers for uniting and incorporating the several parishes, townships, and places in each, and the establishing a proper hospital, workhouse, and house of correction, in each district, under the management of governors, directors, or trustees, to be specially chosen for that purpose, will be the most easy and effectual method for relieving the impotent, employing the industrious, and reforming the vicious, poor."

The said Resolutions were agreed to by the House; and a Bill was ordered to be brought in, pursuant thereto.

Debate in the Commons on General Warrants.] January 29. On the motion of sir William Meredith, the proceedings of the House of the 14th of February last, in relation to the question proposed, That

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a General Warrant for apprehending and seizing the authors, printers, and publishers, of a seditious libel, together with their papers, is not warranted by law: and also the proceedings of the House of the 17th of February last, when the House resumed the adjourned debate upon the said proposed question, were read. Then sir William moved, "That a General Warrant for apprehending the authors, printers, or publishers, of a libel, together with their papers, is not warranted by law, and is an high violation of the liberty of the subject."

It was supported with the same Arguments as before, with some retort upon the administration, that the question was not now *sub judice*, as in the action brought by Mr. Wilkes against lord Halifax; for Mr. Wilkes being outlawed, that action could not be tried. The ministry, however, still insisted that the question was *sub judice*: particularly in the cases between the printers and the messengers, where bills of exceptions had been brought, and which were not yet argued. There was fallacy in this argument, as those bills of exceptions did not touch the legality of the warrant. It is true, the court of King's-bench did, several months afterwards, when some of those bills of exceptions came to be argued, solemnly condemn the warrant; but that question was not strictly before them, and they need not have done it, had they not been so inclined. The ministry likewise insisted, that the delay in obtaining this determination in the courts below, was entirely owing to the solicitor for the prosecutors; and they dwelt particularly upon the impropriety, as they called it, of one House of Parliament only, coming to a resolution upon a point of law; that such resolution was no security to liberty, that it was ineffectual as to the purpose intended, and that it would be nugatory in a pleading in Westminster-hall, the judges there being bound to follow the law as made by the three estates, and not the sentiments of the House of Commons alone.

In the course of the Debate, Dr. Hay narrowed the question, by proposing an Amendment to the question, by prefixing thereto these words: "That in the particular case of libels, and of no other crime, it is proper and necessary to fix, by a vote of this House only, what ought to be deemed the law in respect of general warrants; and for that purpose, at the time when the determination of the legality of such warrants, in the instance of a most seditious and treasonable libel, is actually depending before the courts of law, for this House to declare."

An Amendment was proposed to be made to the said proposed Amendment, by leaving out the words "and of no other crime." And the said Amendment was, upon the question put thereupon, agreed to by the House.

Then the question being put, That the said Amendment, so amended, be prefixed to the question first proposed: the House divided: Yeas 224; Noes 185. So it was resolved in the affirmative.

Then the main question, so amended, being put, "That, in the particular case of libels, it is proper and necessary to fix, by a vote of this House only, what ought to be deemed the law in respect of general warrants; and for that purpose, at the time when the determination of the legality of such warrants, in the instance of a most seditious and treasonable libel, is actually depending before the courts of law, for this House to declare, that a General Warrant for apprehending the authors, printers, or publishers of a libel, together with their papers, is not warranted by law, and is an high violation of the liberty of the subject;" it passed in the negative.

The decision, however, of this important question was not carried without a very long and warm Debate* concerning the nature of treason; the illegality of General Warrants in any case; the actual pendency, before the ordinary courts of justice, of a case similar to that upon which it was proposed the House should now pronounce; and, in fine, the propriety of the House's pronouncing, when it had itself allowed the existence of that circumstance; and as it was impossible, that it should hold out so long upon the arguments which before supported it, and the difference in the alteration was alone sufficient to give room to new ones, many new ones were made use of. For, as there was no law, *totidem verbis*, to determine any of these points, recourse was had to the spirit of the constitution. Parliamentary resolutions were brought against parliamentary

* "This Debate caused a considerable sensation out of the House, and a hand-bill was circulated, in which an eminent lawyer was asserted to have said, 'I think it better to fall with the laws than to rise on the ruins of them.'" Gentleman's Magazine, 1765, p. 94.

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resolutions; judicial decrees against judicial decrees; opinions of able lawyers against the opinions of others equally able; parities against parities; and all of them, resolutions, decrees, opinions, parities, one promiscuously against another. The principal Arguments made use of on this occasion both within and without doors, were as follows:

It was urged, that, in the reign of king Charles the 2nd, when, if the laws themselves were not so favourable to the real dignity of the monarch, the ministers of them must be allowed to have been more liable to lean towards his interests, and in an affair, in which the monarch's cause was made a common cause with that of both Houses of Parliament, the earl of Bristol having exhibited a charge of treason against the earl of Clarendon, and alledged, that the said earl of Clarendon had endeavoured to alienate the affections of his Majesty's subjects by venting opprobrious scandals against his Majesty's person, and that he had traduced both Houses of Parliament; and the judges being ordered to give their opinion whether this be treason or no, they unanimously agreed, that, if the matters alledged in the charge were admitted to be true, although alledged to be traitorously done, yet there was no treason in it; that, independent of this argument, and only allowing that seditiousness, nay treasonableness, is often but mere matter of opinion, and murder a matter of fact, yet no coroner, till within a few years, even after the finding of a murder by the joint opinion of 12 disinterested persons, a much more respectable tribunal than any two ministers of state, was ever known to issue a general warrant for apprehending the unknown perpetrators of it; that, if the legislature thought that such libels, as ministers might think proper to consider as seditious and treasonable, required equal restraint, they would certainly have provided for it; that to prove it was not through any inattention (not that any inattention in the making of laws can excuse any neglect in the ministration of them) of the legislature, such provision was omitted, at the passing of an act at the time of the Revolution for suspending the Habeas Corpus Act, by granting the king a power to secure and detain such persons as his Majesty might suspect were conspiring against his person, every such warrant for detaining and apprehending any suspected person, was to be signed by six members of the privy council, and to be, besides, registered in the council books, in order to make such members answerable for every warrant they signed.

That, if since that time, in order to prevent the growth of a most alarming evil, the great number of rogues and vagabonds, it has been thought proper by the legislature, to direct and authorise general privy searches for such pests of society, yet no person suspected of being either can be committed, if he can procure a responsible house-keeper to give security for his future appearance; or be detained above six days, if committed on suspicion of felony, unless some accusation is, in the mean time, brought against him.

That, if general warrants describing the offence, do not give officers in general a right to seize the innocent, they throw in the way of messengers, who are to be so well paid for taking care of the offender's person, a temptation to enquire into the character and life of all persons, and thus tend in some shape, to convert these subordinate ministers of justice into so many spies and informers; that such an enquiry, even when conducted in the discreetest manner, might injure the most virtuous in their reputation and fortune.

That, if a general warrant for seizing the authors, printers, and publishers of a libel, seditious and treasonable in the eye of a minister, was liable to so many objections, one for seizing their papers was still more so; since papers, though often dearer to a man than his heart's blood, and equally close, have neither eyes nor ears to perceive the injury done to them, nor tongue to complain of it, and of course, may be treated in a degree highly injurious to the owners, before they can get into the hands of a minister? And that, though a minister may have less temptation to satiate avarice by the garbling of such papers, he may have what is a great deal worse, a much stronger to glut his revenge, by combining or disjoining them, so as to make of them engines capable of working the destruction of the most innocent persons.

That even a particular warrant to seize seditious papers alone, without mentioning the titles of them, may prove highly detrimental, since in that case, all a man's papers must be indiscriminately examined, and such examination may bring things to light which it may not concern the public to know, and which yet it may prove highly detrimental to the owner to have

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made public; that of this there had happened a most flagrant instance in the case of one of these persons, the apprehension of whom and of his papers had originally given rise to this debate; some letters of his, no way relative to the public, having transpired soon after the execution of the warrant against him and his papers.

That, great as the mischiefs might be, with which general warrants for seizing the persons and papers of those guilty of writing seditious, and even treasonable libels, must be attended to individuals, those attending general warrants against the printers and publishers of such libels, unless these libels carry something seditious or treasonable in the very title, or they have been legally declared such, must be still greater to the public, since in that case printers and publishers, to be safe, must read every thing that goes through their hands; and of course would print and publish very little; the consequence of which must be a suppression of the press; an evil more prejudicial to the public than almost any abuse of it can be; that such printers and publishers cannot be considered in as bad a light as tale-bearers, since it is impossible for a man to tell a thing without knowing what it is he tells, whereas no printer or publisher can be supposed to know what every thing is that he prints or publishes; and notwithstanding, by the laws of some of our wisest Saxon monarchs, the tale-bearer was to be kept in prison, only till he gave up his author, for that a printer or publisher of an offensive paper ought not to be seized and detained till he gave up the writer, was not in the least pretended by them.

That the cases, if any, in which it might be proper to endeavour to secure, by a general warrant, the persons, and by almost any warrant, the papers of those concerned in the writing, printing, and publishing of seditious, and what a minister might think proper to style treasonable libels, were so few, that they might be justly ranked amongst those very uncommon events, against which the legislature has not thought proper to make any provision; because the providing against all such uncommon events would swell the law to an intolerable degree; that, besides, it was almost impossible to imagine any case in which every evil, with which such practices could be attended, might not be seasonably enough remedied, and even prevented by the presentment of a grand jury; or, at worst, an information in the court of King's bench.

Such were the arguments now urged against ministers too freely attributing treason to libels, and their granting general warrants for seizing the persons and papers of the authors, printers, and publishers of seditious libels, and even such libels, as they might think proper to deem treasonable; and in both respects they must be allowed to have great weight, considering how much more the scale preponderates at present towards the safety of the people than the grandeur of the prince. For there is great reason to think, that, in some periods of English history, the imputation not only of sedition, but even treason, might have stuck to the writings now stigmatized as such by the ministers, whose friends accordingly did not fail to make use of them.

There is, said they, in the statute called Westminster, chap. 24, a law against telling or publishing any false news or tales, whereby discord, or occasion of discord, or slander might grow between the king and his people, or the great men of the realm; and the so doing was reckoned sedition in the reign of that nursing mother of her people queen Elizabeth; and, as to the danger of hurting the reputation or fortune of innocent men, by encouraging an enquiry into the commitment of some offences, there is frequent mention made in the English records, of the king's sending orders to sheriffs or other magistrates to enquire into some particular sort of crime, then commonly committed within their district, and to seize and imprison the offenders; and at the time of issuing the general warrants that have given rise to this debate, what crime could be more common than that of telling or publishing false news and tales, whereby discord, or occasion of discord, or slander, might grow between the king and his people, and the great men of the realm?

That, in the case of offences not near so grievous, it has been an immemorial custom to disturb the peace of a whole country by that solemn alarm called 'hue and cry,' and thereby made it lawful for all inhabitants to stop, and all magistrates to enquire into the character of every stranger, for the sake of finding out one single delinquent.

That to question the legality of general warrants, would be impeaching the character of the highest and most respectable tribunal, next to the House of Lords, in the whole realm; a tribunal, whose judges for many years past, that general war-

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rants have been in use, have been allowed to be men of the soundest capacity and most unbiassed integrity; since it is not to be supposed, that they, who are always, even by the law, supposed to be of counsel for the prisoner, and cannot, therefore, but consider themselves as such, should overlook any flaw in an order to deprive a man of his liberty, though not taken notice of by the counsel of his own appointment; men, who have been not only so attentive to the spirit and letter of the law, as often to decide cases on motives never urged by the counsel of either plaintiff or defendant, but so watchful of the very shadow of it, as sometimes to dismiss causes for want of a scrupulous compliance with mere exterior forms.

That, besides, it could not but be supposed, that many of the counsel employed on these occasions were lovers of liberty and very able lawyers, and that the silence of such men is, alone, of great weight, in the opinion of a chief justice, whose capacity and integrity their adversaries themselves, they were sure, could not suspect; an Opinion solemnly delivered from the bench, and in that cause too, which originally gave rise to the present debate*.

That, if a law, made at the revolution, in the reign of William 3, who is universally allowed to have been as jealous of the prerogative of the crown as was consistent with the security of his new acquired possession of it, required that warrants, granted during the suspension of the Habeas Corpus Act, for the detaining or apprehending of such persons as his majesty should suspect were conspiring against his person or government, should be signed by six of the privy council; the last act passed for the same purpose required, that such warrants should be signed, either by six of the privy council, or one of the secretaries of state, by which the high authority of that office, which so many persons affected to consider in a mean light, is, if not recognized, at least established, since it is thereby made equal to that of six members of the privy council, six men, whose persons, next to those of the royal family, are held most sacred, a bare attempt upon their lives being felony without benefit of the clergy.

That it must appear very extraordinary, if not ridiculous, that a House of Commons, which had made no law for the relief of the most innocent persons even in domestic life, closely confined and cruelly treated in private mad-houses, without any judicial proofs of insanity, and merely at the instigation of persons no way related to them, or only related to them enough to have an interest in their confinement and death, and could overlook so great an evil notwithstanding the flagrant proofs of its actual existence, should now take so much pains to declare illegal the comparatively most mild detention of supposed offenders against the public, by orders of persons so high in dignity, and in the confidence of the prince, and even of the legislature, as appears by the above law to make the opinion of one of them equal to that of six privy counsellors; men of such justice and humanity, that, in dismissing the persons confined in virtue of their warrants, they seldom or never failed to enquire of themselves, if they had received the full benefit of the ample allowance made for their support, and severely to resent any misapplication of it.

What the friends of the ministry might want in these arguments against the illegality of general warrants, &c. they made it up, perhaps, in those for the propriety of stating the question, as a question now depending before the ordinary courts of justice in Westminster-hall. They remarked, that, if the proceedings there against the secretaries of state met with any obstacle, it was entirely owing to the parties seeking redress; who, in an offence deemed even by the opposite party to be of a public nature, chose, from a principle of avarice, to be plaintiffs for themselves, rather than prosecutors for the public: and accordingly had recourse to a court established for the distribution of civil justice, merely because they saw that court give as damages to the plaintiffs, what, in a higher court established for the infliction of vindictive justice, would have been exacted as a fine to the public, though they could not but know, that, in the court to which they applied, their proceedings were liable to be stopt by privilege of peerage; that the giving of such heavy damages could not be deemed entirely the act of a jury independent of the bench, since, on a motion to have such damages reduced as exorbitant, they were confirmed by the bench, independent of a jury.

That, if any resolution was wanting, it seemed to be one for keeping distinct these departments of justice, and prevent-

* Lord chief justice Pratt's Argument on delivering Mr. Wilkes from the Tower.

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ing any court's giving as damages to plaintiffs, what had ever been considered as fines upon criminals; that, if this was to be done, the propriety of which they did not deny in many cases, where no justice could be expected without throwing some powerful temptation in the way of the plaintiff, as in cases of usury and smuggling, it ought to be by an act of the legislature, and not the determination of any particular tribunal, whose decisions in such cases must be considered by all sober men as little less arbitrary and unconstitutional than those of a Star-chamber.

As to the propriety of the House's coming to any resolution upon this affair, when stated by the House itself as actually depending in the ordinary courts of justice, it was urged, that it was no more than what had been lately done in the case of Mr. Wilkes; when writings were voted libellous by the House, and he the author of them, and all without any proof upon oath, though at the very same time that gentleman was under a prosecution for them as libellous in the court of King's-bench; and consequently, both judges and jury might have been influenced by such resolution in their determinations concerning the nature of the offence and the person of the offender.

To this answer was made, that it was impossible for the House not to come to some resolution on that occasion, since the person accused was a member of it, and by claiming privilege as such, could not but be construed to have voluntarily submitted to the jurisdiction of the House; that this, besides, was a particular case, in which the House acted more like an inquest or grand jury, whose decision was not to influence the petty jury, than as a court of justice, whose decisions were to be final and conclusive, and only claimed that jurisdiction over its own members, which so many inferior bodies of men have been always allowed over theirs; whereas the proposed declaration against the legality of general warrants is very general in its tendency; so general, as, in some respects, to be liable to the same objections with the general warrants of secretaries of state, merely as such.*

Proceedings in the Commons on the Bill to vest the Isle of Man in the Crown.†]

January 21. The Chancellor of the Exchequer presented to the House, "A Bill for more effectually preventing the mischiefs arising to the revenue and commerce of Great Britain and Ireland, from the illicit and clandestine trade to and from the Isle of Man;" and the same was read the first time.

Feb. 13. A Petition of the most noble John duke of Athol, and Charlotte duchess of Athol, his wife, baroness Strange, was presented to the House, and read, setting forth,

"That the Isle of Man, with its dependencies, was originally granted by king Henry the 4th, by letters patent under the great seal of England, dated the 6th of April, in the 7th year of his reign, to sir John Stanley, under whom the petitioner, the duchess, claims by lineal descent, his heirs and assigns; that family disputes having arisen many years subsequent to the grant, which were determined by an amicable adjustment, in consequence of a large pecuniary consideration paid by William, earl of Derby, king James the 1st, in order to effectuate the accommodation, and to extinguish the claims of the contending parties, who had been satisfied, was graciously pleased to make a new grant and settlement of the island, with its appurtenances, by letters patent under the great seal of England, dated the 7th of July, in the 7th year of

* See Annual Register, 1765, p. 27.

† "It was found expedient for the prevention of frauds committed by smugglers, to annex the Isle of Man to the realm. This small territory formed a domain of a singular tenure; it was part of the crown, but not of the realm of England: it was under the allegiance of the king, but governed by its own laws and customs. In these respects it resembled Jersey and Guernsey; but in those islands the king appointed governors, and retained the jurisdiction of the admiralty; the superintendance of civil justice vested in the king in council, and he could prosecute a suit in his own name in any of the courts of England; in a word, the prerogatives, royalties, and jurisdiction of those islands vested in the crown, and the writs from the superior courts at Westminster were allowed to operate in them. But in the Isle of Man the king had no courts, no officers; and no suits arising there, whether at the instance of the party or of the crown, were determinable in England. It was even doubted if the great prerogative or mandatory writs, which issue to all places under subjection to the crown of England, would be valid there. This singular inheritance had been for nearly four centuries vested by parliamentary charter, in the family of the duke of Athol." Adolphus.

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his reign, in favour of the said William, then earl of Derby, and Elizabeth his wife, and James lord Stanley, their son and heir apparent, and thereby to grant all the isle, castle peel, and lordship, of Man, and all islands and dominions to the said island belonging, all royalties, franchises, liberties, sea ports, and all things to ports duly appertaining, lands, woods, forests, chaces, fisheries, marshes, waters, commons, lands gained or to be gained from the seas, and all profits, commodities, emoluments, hereditaments, and appurtenances whatsoever, situate, lying, or being within the said isle, castle peel, and lordship of Man, or within the seas contiguous and adjacent to the said island, or within any of the islands and dominions to the said island howsoever belonging; the patronage of the bishopric of Sodor and Man, courts of admiralty, courts port mote, wrecks of the sea, anchorage, groundage, and all other rights, royalties, jurisdictions, franchises, liberties, privileges, profits, and advantages whatsoever, in as full and ample a manner as any other person or persons theretofore held the said isle, castle peel, and lordship, or any other hereditaments within the same, or within the sea thereto belonging, had or ought to have held and enjoyed the same, by virtue of any former grants or letters patent from the kings or queens of England, or of any act or acts of parliament, lawful prescription, usage, or custom, or any other rights or title, and as fully and amply as his majesty or any of his royal predecessors, kings or queens of England, had, or ought to have held the same: To hold to the said William earl of Derby, and Elizabeth his wife, during the natural life of them and the longer liver of them, and, after their decease, to the said James lord Stanley and his heirs, to his and their only proper use and behoof; to be held of his majesty, his heirs and successors for ever, by homage liege, and the delivery of two falcons twice only, viz. immediately after the homage made, and afterwards to the kings of England on their coronation day, in lieu of all other customs, services, and demands, with divers other valuable and extensive privileges, and a stipulation, on the part of the crown, for a perpetual quiet enjoyment to the grantees of the Isle, and every thing therewith granted: That an act of parliament afterwards passed, in the same 7th year of his majesty king James the 1st, intituled, An Act for the assuring and establishing of the Isle of Man, by which it was enacted, that the said William earl of Derby, and the lady Elizabeth his wife, during their lives, and the longer liver of them, and after their deaths the said James lord Stanley and the heirs male of his body, and in default thereof, Robert Stanley and his heirs male, and in default thereof, the heirs male of the earl, and for default of such issue the right heirs of the said James lord Stanley, should, and might for ever thereafter, have, hold, quietly enjoy, freely and clearly, against his majesty, his heirs and successors, under the tenures and services therein mentioned, and against the several persons therein named, the coheiresses of Ferdinando earl of Derby, and against the heirs of the said earl Ferdinando and Thomas Ireland, esq., his executors and administrators, the said isle, castle peel, lordship of Man, and all islands and hereditaments thereto belonging, royalties, franchises, liberties, sea ports, and all things to ports duly appertaining, courts admiral, courts port mote, customs, free customs, imports, profits, emoluments, and hereditaments whatsoever, situate or being, renewing or happening, within the said isle, castle peel, and lordship, or within the sea to the said island adjacent or belonging, or in or within any other islands, lands, manors, castles, farms, or lands, to the said Isle belonging, or in, to, or out of the same, or any of them, howsoever incident or belonging, or part or parcel of the same, or at any time theretofore had, known, accepted, enjoyed, or reputed, as part thereof, and the rents, duties, customs, and services, thereto incident or appertaining, and all liberties, franchises, privileges, jurisdictions, forfeitures, immunities, exonerations, acquittals, and hereditaments, granted by the preceding letters patent, and the general saving clause expressly excepted his majesty, his heirs and successors; and that, by an act, passed in the twelfth year of the reign of his majesty king George the 1st, intituled, An Act for the improvement of his majesty's revenues of customs, excise, and inland duties, it was enacted, for better enabling his majesty to prevent the frauds and abuses therein mentioned, in the exporting or importing goods and merchandizes to and from the Isle of Man, that it should be lawful for the commissioners of the treasury, on behalf of his majesty, his heirs and successors, and also for the then earl of Derby, and other persons named in the

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act, and all other persons claiming under the earl, or any of his ancestors, to treat, contract, and agree, for the absolute purchase or sale, release or surrender, to the use of his majesty, his heirs and successors, of all or any estate, right, title, or interest, which the earl, his tenants, and other the persons aforesaid, then had or claimed, or could or might have or claim, in or to the said island or lordship, or all or any regalities, powers, honours, superiorities, jurisdictions, rights, privileges, duties, customs, revenues, profits, or other advantages whatsoever, in, over, or about the said island of Man, or its dependencies, for such sum or sums of money, or upon such other terms or conditions, as they should think fitting; and, upon the execution of such contract, and the conveyances to be thereby agreed on, the commissioners of the treasury were empowered, out of any monies arisen, or to arise from any customs, subsidies, impositions, or other duties upon the importation or exportation of any goods or merchandizes, then or thereafter to be granted, or payable to his majesty, his heirs or successors, in Great Britain, Wales, or Berwick upon Tweed, to direct the payment of the monies to be agreed on for such purchase to the persons intitled to receive the same; and that the said James, the last earl of Derby, died in 1736, when the island and its dependencies, by virtue of the limitations in the preceding letters patent and act of parliament, descended to the most noble James duke of Athol, late father of the petitioner the duchess, as heir general to James lord Strange; and his grace delivered to his present Majesty, upon his coronation, the two falcons, reserved by the grant, and payable upon that august solemnity; that the said James duke of Athol afterwards departed this life on the 8th of January, 1764, and thereupon the said Isle, and its dependencies, devolved upon the petitioner the duchess, his only child: and that the petitioners, having so lately become proprietors of the said Isle, are, in a great degree, unacquainted with the particular treaties and negociations which have been carried on between the great officers of the crown and their ancestors, touching the purchase of the said Isle, and other their charter rights and jurisdictions, in and belonging to it, in consequence of the said act of the 12th of his majesty king George the 1st; but the petitioners, reluctant as they own themselves to be, to disunite from the honours of their family, so ancient and princely a patrimony, the reward of the services and the monument of the virtues of their ancestors, granted by kings, and confirmed by parliament, and derived to them by immediate lineal succession, through a period of near 400 years, do not presume to set their private feelings and partial considerations in competition with public utility and convenience; and, if the service of the state demands a resumption of their ancient hereditary rights and revenues, they throw themselves, with the most dutiful submission, upon the pleasure of their sovereign, and the disposal of parliament, trusting with unlimited confidence in the justice of his Majesty and his parliament, distinguished, in all their acts, for their attention to, and tenderness of, the civil rights and property of the subject, and relying on the faith held out and pledged to them by the legislature on a former occasion; that the petitioners beg leave to make this declaration, at a time when overtures have been made to them by the officers of the crown, under the powers of the said act; and when they observe, by the votes of the House, that a Bill is depending for a second reading, intituled, A Bill for the more effectual preventing the mischiefs arising to the revenue and commerce of Great Britain and Ireland, from the illicit and clandestine trade to and from the Isle of Man; by which, should the same pass into a law, the petitioners apprehend, all the valuable rights, privileges, and advantages, granted to their ancestors, under the sanction of the legislative authority, so long exercised and enjoyed by them, to the extent of their grant, and so lately recognized by parliament, will be wrested and torn from the petitioners, without any provision made for that recompence and compensation, which the legislature, upon a former hearing of the patentees right, seemed to consider as a debt to be paid by the public, for the great consequential advantages which would result to the community, from a resumption expedient perhaps for the state, but injurious and detrimental to the proprietor: and therefore praying, that they may be at liberty to be heard, by their counsel, against the said Bill: and that the House will be pleased to take the premises into their consideration, and to grant the petitioners such relief therein, as the nature, circumstances, and justice of the case may require."

Ordered, That the said Petition do lie

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upon the table, until the said Bill be read a second time; and that the petitioners be then heard by their counsel upon their said Petition, if they think fit.

The order of the day being read for the second reading of the Bill, for more effectually preventing the mischiefs arising to the revenue and commerce of Great Britain and Ireland, from the illicit and clandestine trade from the Isle of Man, the counsel against the Bill were called in, and the said Bill was read a second time. And the above Petition was also read;

And one of the counsel, Mr. Maddox, against the Bill was heard, and produced evidence in support of the said petition; and the other counsel, Mr. Cooper, against the Bill, was heard as follows:

Mr. *Cooper.* I have the honour also to attend this honourable House, as counsel for the most noble proprietors of the Isle of Man, who have instructed us to lay their title to this estate before you, and to offer on their behalf some humble remonstrances against the provisions of a Bill, which, they think, and are advised, tend to overturn that title, and to take away those rights, which they claim under a parliamentary charter, without any compensation or equivalent.

Their title has been stated to you; the charter has been read. In the nature and extent of it, it contains all that a sovereign can grant, or a subject can take. It carries with it all the flowers of prerogative, and all the fruits of revenue; all the greater and lesser regalities. It gives the patronage of the bishopric; it gives the dominion and profits of the land, the shore, the ports, and the seas, belonging to this island: it gives the superintendency and distribution of all civil, criminal, ecclesiastical, and naval justice and jurisdiction.

The preamble of the act which confirms this charter is very remarkable: 'And to the end that the same may continue still by his majesty's princely favour and gracious allowance, in his name and blood, as long as it shall please Almighty God.' It is held in liege homage of the crown of England, as Normandy, Aquitaine, and Bretagne were of the crown of France: the right of the crown is expressly and anxiously barred.

This island was an ancient independent kingdom. In different ages it has been in the possession of king's ministers and soldiers. In the time of Henry 3, it was under an independent sovereign. It was granted by Edward 2, to his favourite Gaveston earl of Cornwall, and afterwards to lord Beaumont, 'cum omni dominio et justitia regali.' In 1390, it was in the possession of lord Scroop, who adhered to king Richard, and forfeited the island to Henry 4. Henry 4, in his grant of it to Henry earl of Northumberland, recites, that he claimed it not by right, but by conquest: he grants, 'Insulam, castrum, palam et dominium de Man, ac omnia insulas et dominia eidem insulæ pertinentia, quæ fuerunt Wilhelmi de Scroop, nuper defuncti, quem in vita sua conquestati fuimus, et ipsum sic conquestatum decrevimus, et quæ ratione conquestus illius, cepimus in manus nostras.' This grant was in the first year of his reign. Anno 1399.

In the fifth year of Henry 4, the earl of Northumberland was attainted of treason, and the isle with its dependencies, was granted to sir John Stanley, who was one of the greatest soldiers and statesmen of his time. From sir John Stanley the present noble owners derive their title, not immediately under his grant, but under the parliamentary charter, seventh of James 1.

All these rights have been used and exercised in conformity to the grant. Use gives interpretation and validity to all grants. The lords have successively named the bishop, and appointed the governor, and all the other civil and military officers of the island. They have paid from their own revenues, the establishments of both departments; they have held all the courts. The process and decrees have been executed in their name. In criminal cases, they have exercised both the powers of justice and mercy. They have coined money. They have received the land revenue, the customs and duties upon imports and exports, and the profits of all seizures made within the island, or its dependencies. And if a parliamentary charter can give a right, if the full exercise of that right, succession of inheritance, continual claim, matter of fact, determinations of law, the evidence of records, and the consent of history, be of any weight in the assertion of a title, the present proprietors have as clear and incontestable a right to it, as any lord or owner of any manor or estate in the kingdom.

This island is part of the crown, but not of the realm of England. It is under the allegiance of the king, but governed by its

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own laws and customs. In these respects, and in these only, it resembles the islands of Jersey and Guernsey. But as it has been considered, not only in common error, but in some few acts of parliament, to stand in the same relation to this kingdom as Jersey and Guernsey, it may be of some consequence to mark the difference.

Jersey, Guernsey, Alderney, and Sark, were part of the duchy of Normandy. King John lost Normandy. The islands, as the dependencies, were lost soon afterwards, but reconquered in the same reign, and have been ever since in the possession of the crown of England. They are governed by their own particular customs, which are to be found in the Grand Custumier of Normandy. But all the prerogatives, regalities, and jurisdictions of those islands rest in the crown. They have never been granted away. The king appoints the governor; has the jurisdiction of the admiralty courts. The civil justice is superintended by the king and council. Suits arising in the island, and between insular parties, are to be determined in the island. But where the suit is in the king's name, he may make his suit in any of the courts of England.

A writ of Quo Warranto has gone into those islands for liberties claimed there. A Quare Impedit has been brought in the King's-bench for a church in the island of Jersey. So an information has gone for a riot, or grand contempt, against the governor deputed by the king. The great mandatory or prerogative writs run into those islands. A writ of Habeas Corpus has been returned from Jersey. In the old register of writs there is a very curious one, to this purpose: "De Attornato faciendo in insulis de Guernsey, Jersey, Alderney, et Sark, &c. quod liceat A. B. facere attornatos in quibuscunque curiis insularum earundum post adventem ipsius A. in insulis prædictis." This writ did not extend to the Isle of Man, because the king had no officers and no courts in that island.

In the case of the Isle of Man, all the regalities and powers which the king exercised, and still exercises, over the islands of Jersey and Guernsey, are severed from, and granted by, the crown. The king, as liege lord, has the sovereign appellate jurisdiction in all causes: but his writs do not run there. No process of the courts of England goes there. No suits arising there, whether at the instance of the party or the king, can be determined in England.

The king cannot evoke any cause from the jurisdiction of the Isle of Man. I presume to think, that the great mandatory writs do not lie to the Isle of Man. I know the potency and energy of these writs; I know they are said to issue to all places under subjection to the crown of England: but I believe that the Isle of Man is never mentioned in the old books as one of those places to which these writs go: and I do not find, and I cannot learn, that there is one instance of a prerogative writ having been sent to, or returned from thence; and I do not see to whom they could be directed, and by whom returned. This is a presumption amounting to proof.

But be this point as it may, I am bold enough to assert, that if this grant had no other sanction but the great seal, the king by his prerogative could not derogate from it, or infringe it; he could not by any commission, or delegated power, make seizures in the ports of the island, or take to himself the duties, customs, or revenues, of the grantee: he could not, in ancient times, have collected in the island the great customs of wool and leather, which were the hereditary revenue of the crown, independent of parliament. Charles the 1st could not, by his proclamation, have levied Ship-money in this island. The king could not have done what this bill is calculated to do.

What parliament can do, I presume not to say; but I think I know what it will not do: it will not take away private property without imminent necessity and just compensation.

I do not presume to set the bounds of legislative power; they are, and perhaps ought to be, invisible: but I venture to say, that it is bounded, not only by its own moderation and equity, but by the trust reposed in it by society, and by the laws of God and nature. Even absolute power, where it is necessary, is not arbitrary by being absolute, but is still limited by that reason, and confined to those ends, for which it was made absolute.

Government, into whose-ever hands it is put, was intrusted with this condition, and for this end, that men might have and preserve their property.* The prince or senate may have power to make laws for the regulation of property between the subjects one amongst another; but can never have the power to take to themselves the whole, or any part of any subject's pro-

* Locke on Government.

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perty, without his own consent. 'Ad reges potestas omnium pertinet ad singulos proprietas, universa sunt in imperio Cæsaris, in patrimonio propria'—

But it is one of the conditions under which civil property is held in all societies, that the owners may be forced to part with it to serve the necessities, or even the convenience of the state. I admit this exception; but to this condition another is inseparably annexed, the condition of equivalent and compensation from the public to the private owner. All the great authorities concur in this point. 'Res subditorum subeminenti dominio sunt civitatis, ita ut civitas, vel qui civitatis vice fungitur iis rebus, uti easque etiam alienare et perdere possent ob publicam utilitatem, sed addendum est ideum fit civitatem tenere iis, qui suum amittunt, damnum sarcire de publico in quod publicum nomen, et ipse qui damnum fecit contribuet; neque hoc onere levabitur civitas, si nunc forte ei præstationi par non sit, sed quandocunque copia suppetit exseret sese quasi sopita obligatione.' Grotius.

Puffendorff enforces the same principle with great strength of reasoning, and many instances and examples of compensation.

Hertius, a very learned writer of the last century upon the Jus Publicum, in his chapter De collisione legum, attacks the opinion of Hobbes and his followers, who thought that the estates and the rights of private persons might be taken away by the sole plenitude of power, and without any cause assigned: 'Statuunt nihil proprii habere quenquam in civitate et dominia privatorum inducere rationem dominii utilis, vel usufructus nutu summi imperantis.' This judicious author confutes these dangerous and pernicious doctrines with great clearness of reasoning; and he adds that no prince or sovereign power, in his time, acted upon them but Philip the second, 'qui semper privatæ fidei publicam rem miscebat.'

The incomparable Montesquieu is worth a thousand authorities. 'When the public has occasion for the property of a citizen, it ought never to act by the rigour of political law; but in those cases the civil law ought to prevail; the civil law, which looks with the tenderness of a mother upon each individual as much as upon the whole community.'

If the political magistrate wants to make any public building or new road, he must make compensation: the public is in this respect as a private party treating with a private party. It is enough that the public can compel the citizen to sell his inheritance, and that it takes from him that great privilege which he holds of the civil law, that he cannot be forced to alienate his property.

This is not an abstract or speculative notion, but has been the rule of practice in all times, and in all nations that ever saw the light of liberty, or lived under the empire of laws. It has been the rule of princes, who seem to have had no other rule either of public or private morality. Tiberius observed it. Domitian observed it. When he built a fortress in a colony, and surrounded it with an entrenchment for the defence of the colony, he ordered the price of the lands which he inclosed to be paid to the owners. 'Atque ea justiciæ fama omnium fidem sibi astrinxit.'

To state an instance of a tyrant from our own history. By parliamentary charter, 11th Edward 3, the prince of Wales was created duke of Cornwall, and all the possessions given him at that time were inseparably, and for ever, annexed to the duchy of Cornwall. Henry the eighth had a great desire for one of these possessions; the manor of Wallingford lay near one of his hunting palaces, 'et fuit per quam commodum, amœnum, et decens pro rege.' An act was passed to disannex it from the duchy of Cornwall: but the same act declared, that the prince of Wales and his successors should annex three other manors, 'pro et in plenâ compensatione prædicti honoris et castri.'

The kings and ministers of France have in all times adhered religiously to this rule.

When Mons. Sully, the greatest master of finance in his day, came to the administration of the affairs of France, he found all the branches of the revenue incumbered and overwhelmed with grants and charges, ruinous and detrimental to the public. He discovered frauds, abuses, concealments, &c. He reformed these abuses; he overturned the tables of the former collectors, the auditors and agents of the grantees; but to the grantees themselves he made full compensation; both to the duke de Montmorency, his friend, and the duke d'Epernon, his personal enemy.

The situation of the island of Belleisle is much the same with respect to France as the Isle of Man is to England. It be-

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came the sanctuary and refuge of pirates. Charles the ninth was advised to take it into his own hands, and give the owners an equivalent for it. He did so, and granted it to the marshal de Retz, in 1572. It improved so much, and became so populous in the hands of the marshal, that Monsieur de Sully wanted to annex it to the crown, and to give the marshal other estates. A treaty was actually on foot for this purpose; but by some means or other, it was not carried into execution. From this time the project of reuniting it to the crown was revived in every reign, but never fully completed till 1726, when the marquis de Belleisle finally yielded it to the king, and received in exchange for it the county of Gizors, and several other considerable estates.

The case of the heretable jurisdictions in Scotland is a most striking instance of our own times.

Signius irritant oculos demissa per aures;
Quam quæ sunt oculis subjecta fidelibus.

The private jurisdictions had been long looked on with jealousy by the kings of Scotland. James the sixth formed a plan to put an end to the heretable jurisdictions; he got an act of parliament extolling the wisdom of the design, and ordaining that reparation should be made to the private proprietors, and naming commissioners, the highest persons in the kingdom, to transact with them: but this great apparatus ended in nothing.

Charles the 1st, in the beginning of his reign, made an attack upon these regalities, but without effect.

Dalrymple, the very able and ingenious author of the History of Feudal Property, makes this strong and striking observation on the times which followed: 'Cromwell had enough of the monarch to see how inconsistent these private jurisdictions were, either with the interest of the supreme power, or the safety of the people; but he had too much of the tyrant to think of making reparation to the private proprietors from whom he took their jurisdictions, but to whom he gave nothing in return.'

I hardly take into my view an act passed in 1681: an act forming propositions concerning the most ancient feudal rights, yet founded on abstract, not on feudal principles; an act unhinging the rights of the orders of the state, granting no equivalent for those rights, yet asserting, that there is nothing taken from the proprietors: an act, in fine, composed in the days of slavery, and repealed in the days of liberty, 1690.

The act of the late king, which abolished some, and limited others of the territorial jurisdictions, granted a full and just equivalent to the proprietors. The public paid 150,000*l.* not for visible or corporeal inheritances, but for power, for pride, for idea, distinction, custom of living, and habits of thinking, trains of followers, and the Highland dress.

Let us come to the Bill in question, and try it by these rules and these examples. The duke's title is incontestable; it is founded in ancient prescription, fortified by a charter of parliament.

It might not, perhaps, have been wise for a king to make such a grant to a subject; it might not be expedient for parliament to confirm it; but when such a parliamentary charter has passed, neither the granting nor confirming powers ought or can, consistently with the true rules either of justice or policy, violate or infringe the rights of the grantee, without compensation or equivalent.

Whatever rights are saved out of that charter, whatever powers either are not, or could not be granted to a subject, the king may exercise as far as his prerogative extends; and the legislature may, out of them, model and frame such laws and regulations as they think necessary or expedient for correcting abuses and inconveniences arising from the nature of such grants.

But if, under colour of correcting abuses, they encroach on the rights of the grantee, they not only injure the private owner, but they invalidate and derogate from their own acts.

Reformation is a noble idea, and a noble employment for government; but they will not pursue it cross the lines of justice, and the barriers of civil property.

Parliament granted this isle to the ancestors of the duke. This grant has eventually become inconvenient to the public. They wish to resume it: they cannot make this resumption by dismembering it parcel by parcel; but they must do it directly by compensation. And let it be understood, that whatever a subject possesses under a regular and valid grant, whether it be privilege, immunity, jurisdiction, or patrimonial inheritance, it is comprised in the eye of all idea under the laws of property.

But it is said, that this Bill does not

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take away the rights of the proprietor, or affect his legal property. Does it not? Look at the Bill, and look at the charter; collate them.

The parliamentary charter gives him the territories of the ports and the seas, the revenue, the customs and the duties, and admiralty, in and over the whole island. The Bill enters his seas, his coasts, his harbours, his rivers, and carries with it all the officers of the customs and excise in England and Ireland, to visit, search, and seize. At one stroke, it ingrafts the whole code of penal laws of revenue upon the Isle of Man. Does not this invade his right, and take away his property?

The parliamentary charter, when it gave him ports, duties, and customs, gave him trade and commerce. The Bill cuts off his communication not only with England, Ireland, and the plantations, but with France, Holland, and, as to many articles, divides it from the whole world. It puts it under the ban of parliament, and the interdiction of commerce. Does not this affect his right and property?

By the charter he is clearly entitled to the whole admiralty jurisdiction of the island, and its dependencies; and the determination of insular seizures is as clearly within that jurisdiction.

The Bill in express terms invades this jurisdiction, and carries the merits of every insular seizure to be determined in a distant country, by laws unknown in the island. All forfeitures are expressly given to the proprietors.

The Bill not only brings all seizures to the ports of Britain or Ireland, and condemns them in their courts, but it gives every shilling of the value of such seizures from the lord, though taken on his coasts, or in his harbours, or his rivers.

Are not these direct violations of the right of the lord of Man? Do not these provisions deprive him of his property? Does not this Bill, as far as it goes, virtually repeal the parliamentary charter; and next year another Bill may take away more rights and more regalities.

Precedent will justify precedent, and encroachment sanctify encroachment, till by gradual defalcations, the lord of Man has nothing remaining of this great and splendid possession, granted to his family by so strong and so solemn an investiture, but a naked and onerous propriety; nothing left but a barren sceptre in his hand, and the ancient and venerable trunk of sovereignty, standing stripped of all its branches, upon the shore of this devoted island. And will this House pass such a Bill?

Will this House, famous in all ages for the justice, equality, and temper of its proceedings, transgress a rule which has received adoption and practice in all times and in all nations, from all sovereign powers? Will you, in this enlightened and distinguishing hour of reason and liberty, do what was never done in the worst times of England, or the worst times of Rome? Will you do, by power, what you cannot justify by sound law, sound reason, or sound precedent?

That word points me the way that I am going; for it is said, Why do you complain? This Bill is no innovation; it is only calculated to enforce the provisions of a former act. The rights of the lord of Man were directly affected by the 7th of George the first. Why may not the present Bill follow up that principle?

To this I answer, the 7th of George the first, the model and precedent of the present Bill, never has affected the rights of the lord of Man; for it has never been executed. As far as it relates to the Isle of Man, it was a hasty, precipitate, ill-digested, and ineffectual law, brought in on the sudden, without notice, debate, or preparation. I have a right to say so, for it bears its character upon its face: it jingles in the Isle of Man with Jersey and Guernsey, as if they stood upon the same predicament: it directs all seizures to be prosecuted in any of his majesty's courts of record at Westminster, or in any of his majesty's courts in such land, island or territory, where the offences shall be committed: it supposes his Majesty to have courts in the Isle of Man; if it did not, it gives an absurd and nonsensical alternative.

I have a right to say, it was an ineffectual law. For this I have the authority of the greatest lawyer, whose opinions will be cited and received with as much reverence, when he is dead, as they were when he was living, and whose decrees and judgments are become other names for law and justice themselves—Lord Hardwicke.

It was his opinion, that this act gave no power to the officers of the customs to make seizures within the Isle of Man; and that if seizures were made in the island by force of the 7th of George the first, they must be prosecuted to condemnation in their proper court here.

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I have a greater authority still, the authority of the preamble of the present Bill, which recites, that it was ineffectual.

Was it in fact ever executed? Did the officers of the customs ever invade the island? Did they, in any one instance, make a seizure in the island, or prosecute the seizure to condemnation out of the island? Did the crown, or the East India Company, for whose benefit the act was principally intended, ever institute any suit under the powers of the act?

If not, the act was a dead letter to the Isle of Man, and the same as if it never had existed. The lord had no notice of it. It never affected his rights, or made any impression on his property. He had no reason to complain or to remonstrate.

What does the acquiescence of those, under whom he claims, amount to? Strain the fiction as far as you can, it amounts only to an acquiescence of five years, under an ineffectual and unexecuted law.

From the 12th of George the First, the House, sensible of the injustice that might have been done and committed, returned to its old good temper, and its old good nature.

How the 7th of George 1, came to be recited in the preamble of the present Bill, and the 12th of George the First suppressed, I do not pretend to guess. 'Sed 'delenda est Carthago.'

If we cannot find a precedent, we will make one: the trade of this pernicious island is ruinous to the commerce and the revenues of Great Britain. Look at the report of the commissioners of the customs in Scotland upon your table, it will make you tremble: hear all the complaints of this sanguine, intemperate, and overweening report.

It complains of the situation of the Isle of Man, and its proximity of Great Britain; the impossibility of the cruizers to keep the seas in the season which the smugglers chuse for their illicit practices. It complains of the Solway Frith, and the flat shores of Cumberland and Lancashire: it represents, in the most melancholy manner, the mutinous and rebellious state of the west coast of Scotland; of the intelligence they keep up with the Isle of Man: it is terrified at their formidable numbers, and demands a large body of light horse to assist the officers of the revenue: it represents acts of hostility, and seems to advise government to declare war against the Isle of Man.

One part of this memorial is very curious and singular. I beg leave to read it. "Your memorialists are informed, that no people are more attached to their own country, or more miserable, when detained from it, than those of the Isle of Man." What follows? "Because they love their country, and prefer their barren Ithaca to the fertile plains of Scotland, they ought all to be pressed on board his Majesty's fleet, for their folly and presumption."

The proprietor admits, that offences have come, that abuses have arisen, and that illicit practices have been carried on in his island: but he declares upon his honour, which he values much more than his island, that he has never given countenance, encouragement, or protection, to such illicit practices. It is his wish and his desire that government may be able to correct and suppress them all.

But is he answerable for the increase of smuggling in the Isle of Man? Is he answerable for the ill use that other men have made of his property? Is he responsible for the failure and inefficacy of the excellent plans which the wisdom of his Majesty, and the vigilance of his councils, have formed for redressing this great evil? Is the situation of the island to be imputed to him? Was it ever a floating island, and did he fix it where it is? Did he lay down the flat shores of Lancashire and Cumberland? Did he extend the Solway Frith? Did he give the adventurous spirit to the smuggler? Did he teach him to embark in storm and winter, and to outsail the cutters? Did he infuse that mutinous spirit into the west of Scotland? Is his island to bear the weight of all the sins of smuggling in England, Scotland, Ireland, America, Jersey, and Guernsey? Is he to bear the blame of all the negligence, timidity, and collusion, of all the petty officers of the customs in all the ports of the kingdom?

Has the Isle of Man, or have the high taxes, which the necessities of government have laid on trade, been the cause of this great evil?

Consider the real situation and circumstances of this noble proprietor, with temper, and without prejudice. What would you have him do? He offers to give up his property, his rights, and his honours, not only to the necessities of the state and the public utility, but even to the projects of revenue. He offers to part with what no subject ever had to part with. He con-

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sents to pluck from his breast a predilection for this island; perhaps a prejudice, but a prejudice of which the most noble minds are not the least susceptible.

He supposes, "that it no longer pleases the providence of God that it should remain in his blood and name," when his country wants it. Of that country which wants it, he asks an equivalent, such an equivalent as you gave for the heretable jurisdiction.

The Isle of Man may be injurious to commerce, but the heretable jurisdictions were subversive of liberty. The Isle of Man may be detrimental to the revenue. The heretable jurisdictions were the seminaries of treason and rebellion. What would you have him do? Name your commissioners, name your arbitrators: treat with him. When you do, you will find him not the king of Man, but a subject of Great Britain. Be yourselves his arbitrators. He throws himself upon the justice, the equity, and the honour of this House.

March 5. The Chancellor of the Exchequer presented a Copy of a Letter from the duke and duchess of Athol to the commissioners of the treasury, dated February 27th, 1765; and also copy of an abstract of the clear revenue of the Isle of Man for ten years, from the year 1754 to the year 1763, both inclusive: He then acquainted the House, that his Majesty recommends it to the House to do as they shall think fit with respect to the proposal contained in the letter from the duke and duchess of Athol to the commissioners of the treasury.

Ordered, That the said copies be referred to the committee of the whole House, to whom it is referred to consider what rights of the proprietor of the Isle of Man, under the several grants of the said island, it may be expedient to vest in the crown for the farther and more effectual preventing the mischiefs arising to the revenue and commerce of Great Britain and Ireland, from the illicit and clandestine trade to and from the said island; and what compensation it may be proper to make to the said proprietor in respect thereof; and which report was ordered to be received next day.

March 6. It was resolved, 1. "That for the farther and more effectually preventing the mischiefs arising to the revenue and commerce of Great Britain and Ireland, from the illicit and clandestine trade to and from the Isle of Man, it is expedient to vest in the crown, upon a proper compensation to be paid to the proprietors of the said island, the Isle, Castle, and Peele of Man, and all rights, jurisdictions, and interests, in and over the said island, and all its dependencies, holden by the said proprietors, under the several grants thereof, or under any other title whatsoever, excepting only their landed property, with all their rights in and over the soil, as lords of the manor, with all courts baron, rents, services, and other incidents, to such courts belonging; their wastes, commons, and other lands, inland waters, fisheries, and mills, and all mines, minerals, and quarries, according to their present rights therein, felon's goods, deodands, waifs, estrays, and wrecks at sea, together with the patronage of the bishopric, and of the other ecclesiastical benefices in the said island, to which they are now entitled. And 2. That the sum of 70,000*l.* may be proper to be paid, as a full compensation to the proprietors of the Isle of Man, according to the proposal contained in the letter from the said proprietors, dated the 27th day of Feb., 1765, to the commissioners of the treasury."

And a Bill was afterwards passed, whereby the whole isle, with all its jurisdictions, interests, and dependencies, was vested in the crown.

Proceedings on the American Stamp Act.] Fifty five Resolutions* of the Com-

* As these Resolutions were the foundation of the famous Stamp Act, it will not be improper to take notice of a particular circumstance relative to them; and of part of the argument, which was urged without doors (for very little was said within) for and against that measure, as extracted from the papers and pamphlets published at the time.

"The first and great principle of all government, and of all society, is, that support is due in return for protection; that every subject should contribute to the common defence, in which his own is included. 'Nam neque quies gentium sine armis, neque arma sine stipendiis, neque stipendia sine tributis haberi queunt.' Tacit. Hist. lib. iv. It was necessary, and it was just, to recur to this principle at the close of the last war. It was found necessary to maintain upwards of 10,000 men for the defence of our colonies; an expence of between 3 and 400,000*l.* per ann. great part of which was entirely new, was, on that account, to be incurred; it was just that the colonies which

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mittee of Ways and Means were agreed to by the Commons, and afterwards incorporated into "An Act for granting and applying certain stamp duties, and other duties, in the British colonies and plantations in America, towards further defraying the expences of defending, protecting, and securing, the same; and for amending such parts of the several acts of parliament, relating to the trade and revenues of the said colonies and plantations, as direct the manner of

had profited so much by the war, whose interests, commerce and security had been the first objects of the peace; and of whose ability to bear at least some proportion of that new expence there neither was nor is any reason to doubt, should contribute (not to support or to defend Great Britain but) about a third part of the expence necessary for their own defence and protection.

"Upon this general and acknowledged principle, and upon this application of it, which was just in itself, and which the situation of this country made necessary, and which it might have been expected, would appear neither unreasonable or unpleasing to an English ear, the Stamp Act was planned. In the beginning of the year 1764, the proposition of imposing, by a duty on stamps, a tax on America, in conformity to uninterrupted precedents for near 100 years, was made, and thrown into the form of resolutions. At that time the merits of this question were opened at large; those who have lately so loudly asserted the privilege and exemptions of America were then publicly called upon to deny, if they thought it fitting, the right of the legislature to impose any tax either internal or external upon that country; and not a single person ventured to controvert that right. A year's delay however was given, that any information might be received from America, with regard to the expediency of the particular tax proposed, not to permit the right of imposing it to be controverted. This distinction was fully opened at that time, and afterwards explained to the agents of the provinces.

"This delay was however abused by some of the Americans; and when, in the beginning of the year 1765, the plan was carried into execution by a bill, several petitions from America which denied their right of imposing taxes on the colonies, were presented to the parliament, and were therefore rejected without a division; no one person having been then found, in either House, who would declare it to be his opinion that America was not, in this instance, subject to Great Britain. And yet it has been asserted that this opposition would have been made, if some intelligence relating to this matter had not been suppressed at that time; as this was publicly said, the public is to be informed of the fact, which was this.

"On the 11th of December, 1764, the board of trade reported to the King, that the assemblies of Massachuset's bay and New York, had in their resolutions and proceedings (copies of which they transmitted with the report) treated the acts and legislature of Great Britain with most indecent disrespect. The privy council advised the King, to give directions that the same may be laid before parliament, at such time and in such manner as his Majesty should be pleased to direct and appoint.

"This postponed the laying it before parliament, as it was meant to do; but it deprived the parliament of no information, for the assemblies had instructed their agents here to prepare petitions in the same words; and particularly Mr. Mauduit, the agent for Massachuset's bay, was directed to draw his principles and arguments from Mr. Otis's book of 'The Rights of the Colonies' (which had been reprinted here.) The colonies were obeyed. Petitions were presented, asserting the right of freedom from taxes imposed by Great Britain, on the very grounds of the resolutions and proceedings which the board of trade had transmitted to the King; these were rejected by parliament, not from ignorance of their contents, but because their contents were known; because they denied the power of Great Britain. No information was withheld therefore by this delay, the cause of which was tenderness to the colonies. For had the King called the attention of parliament to proceedings in which their acts were treated with the most indecent disrespect; their own dignity must have drawn from them votes of censure and severity towards the offenders; and therefore the ministry, who were taking the proper methods to form and enforce the act, which would have sufficiently repressed the claims of the Americans, and effectually asserted the dignity and authority of Great Britain, withheld a paper which would have given no information but what was given in a manner less calculated to irritate men's minds.

"It was urged in favour of the colonies, that those who first planted them, were not only driven out of the mother country by persecution, but had left it at their own risk and expence; that being thus forsaken, or rather worse treated, by her, all ties, except those common to mankind, were dissolved between them; they absolved from all duty of obedience to her, as she dispensed herself from all duty of protection to them; that, if they accepted of any royal charters on the occasion, it was done through mere necessity; and that, as this necessity was not of their own making, these charters could not be binding upon them; that, even allowing these charters to be binding, they were only bound thereby to that allegiance, which the supreme head of the realm might claim indiscriminately from all its subjects.

"That it was extremely absurd, that they should be still thought to owe any submission to the legislative power of Great Britain, which had not authority enough to shield them against

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determining and recovering the penalties and forfeitures therein mentioned."

This Act passed the Commons almost without debate, two or three members spoke against it, but without force or apparent interest, except a vehement harangue from colonel Barré, who in reply to an observation of Mr. Grenville, in which he described the Americans as children of our own, planted by our care, nourished by our indulgence; said, "Children planted by your care! No!

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the violences of the executive; and more absurd still, that the people of Great Britain should pretend to exercise over them rights, which that very people affirm they might justly oppose, if claimed over themselves by others.

"That it cannot be imagined, that, when the same people of Great Britain contended with the crown, it could be with a view of gaining these rights, which the crown might have usurped over others, and not merely recovering those, which the same crown arbitrarily claimed over themselves; that, therefore, allowing their original charters to be binding, as they had been deprived of them in an arbitrary and tyrannical manner, such as the people of Great Britain would not now by any means suffer, they should be considered as still entitled to the full benefit of them; that their being bound by these charters to make no laws, but such as, allowing for the difference of circumstances, should not clash with those of England, no more subjected them to the parliament of England, than their having been laid under the same restraint with those of Scotland or any other country, would have subjected them to the parliament of Scotland, or the supreme authority of any other country; that, by these charters, they had a right to tax themselves for their own support and defence.

"That it was their birthright, even as the descendants of Englishmen, not to be taxed by any but their own representatives; that, so far from being actually represented in the parliament of Great Britain, they were not even virtually represented there, as the meanest inhabitants of Great Britain are, in consequence of their intimate connection with those who are actually represented; that, if laws made by the British parliament to bind all except its own members, or even all except such members and those actually represented by them, would be deemed, as most certainly they would, to the highest degree oppressive and unconstitutional, and resisted accordingly, by the rest of the inhabitants, though virtually represented; how much more oppressive and unconstitutional must not such laws appear to those, who could not be said to be either actually or virtually represented?

"That the people of Ireland were much more virtually represented in the parliament of Great Britain, than it was even pretended the people of the colonies could be, in consequence of the great number of Englishmen possessed of estates and places of trust and profit in Ireland, and their immediate descendants settled in that country, and of the great number of Irish noblemen and gentlemen in both Houses of the British parliament, and the greater numbers still constantly residing in Great Britain; and that, notwithstanding, the British parliament never claimed any right to tax the people of Ireland, in virtue of their being thus virtually represented amongst them.

"That whatever assistance the people of Great Britain might have given to the people of the colonies, it must have been given either from motives of humanity and fraternal affection, or with a view of being one day repaid for it, and not as the price of their liberty and independence; at least the colonies could never be presumed to have accepted it in that light; that, if given from motives of humanity and fraternal affection, as the people of the colonies had never given the mother country any room to complain of their want of gratitude, so they never should; if given with a view of being one day repaid for it, they were willing to come to a fair account, which, allowing for the assistance they themselves had often given the mother country, for what they must have lost, and the mother country must have got, by preventing their selling to others at higher prices than they could sell to her, and their buying from others at lower prices than they could buy from her, would, they apprehended, not turn out to her advantage so much as she imagined.

"That their having heretofore submitted to laws made by the British parliament, for their internal government, could no more be brought as a precedent against them, than against the English themselves their tameness under the dictates of an Henry, or the rod of a star chamber; the tyranny of many being as grievous to human nature as that of a few, and the tyranny of a few as grievous as that of a single person.

"That, if liberty was the due of those who had sense enough to know the value of it, and courage enough to expose themselves to every danger and fatigue to acquire it, they were better entitled to it than even their brethren of Great Britain, since, besides facing, in the wilds of America, much more dreadful enemies, than the friends of liberty they left behind them could expect to meet in the fields of Great Britain, they had renounced not only their native soil, the love of which is so congenial with the human mind, and all those tender charities inseparable from it, but exposed themselves to all the risks and hardships unavoidable in a long voyage; and after escaping the danger of being swallowed up by the waves, to the still more cruel danger of perishing ashore by a slow famine.

"That, if in the first years of their existence one of them was guilty of some intemperate sallies, and all exposed to enemies which required the interposition and assistance of an English parliament, they were now most of them

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your oppression planted them in America; they fled from your tyranny, into a then uncultivated land, where they were exhosed to almost all hardships to which puman nature is liable, and yet, actuated by principles of true English liberty, they met all these hardships with pleasure, compared to those they suffered in their own country, from the hands of those who should have been their friends. They nourished by your indulgence! They grew by your neglect of them: as soon as you began to care about them, that care was exercised in sending persons to rule over them, who were, perhaps, the deputies of some deputy, sent to spy out their liberty, to misrepresent their actions, and to prey upon them; men, whose behaviour, on many occasions, has caused the blood of those sons of liberty to recoil within them. They protected by your arms! they have nobly taken up arms in your defence, have exerted their valour amidst their constant and laborious industry, for the defence of a country, whose frontiers, while drenched in blood, its interior parts have yielded all its little savings to your enlargement; and the same spirit which actuated that people at first, will continue with them still; but prudence forbids me to explain myself further."

There was but one division during the progress of the Bill, and then the minority did not amount to more than forty. The petitions presented against it, although recommended by an order of council, were not attended to, and the House refused to receive four from the agents of Connecticut, Rhode Island, Virginia, and Carolina, and one from the traders of Jamaica. In the House of Lords the act passed without debate, division, or protest; and having thus received the sanction of both Houses, was ratified by the royal assent, on the 22nd of March.*

Motion in the Commons respecting Informations Ex-Officio by the Attorney General.] March 4. Mr. *Nicholson Calvert* moved, that part of an Act, made in the 16th year of the reign of king Charles the 1st, intituled, "An Act for regulating the privy council, and for taking away the Court commonly called the Star Chamber," might be read: and the same being read accordingly, he spoke as follows:

Mr. Speaker; the business of this day is of so great importance, not only to every member of this House, but to every subject in his Majesty's dominions: that affrighted as I am at my own incapacity, lest the cause of the public should suffer in my hands, I should not have dared to

arrived at such a degree of maturity in point of polity and strength, as in a great measure took away the necessity of such interposition and assistance for the future. At least, that interposition and assistance would not be the less effectual for the colonies being represented in the British parliament, which was all the indulgence those colonies contended for.

"That, allowing the British parliament's right to make laws for the colonies, and even tax them without their concurrence, there lay many objections against all the duties lately imposed on the colonies, and more still and weightier against that of the stamps now proposed to be laid upon them; that whereas those stamp duties were laid gradually on the people of Great Britain, they were to be saddled all at once, with all their increased weight, on those of the colonies: that, if those duties were thought so grievous in England, on account of the great variety of occasions in which they were payable, and the great number of heavy penalties to which the best meaning persons were liable for not paying them, or not strictly conforming to all the numerous penal clauses in them, they must be to the last degree oppressive in the colonies, where the people in general could not be supposed so conversant in matters of this kind, and numbers did not understand even the language of these intricate laws, so much out of the course of what common sense alone might suggest to them as their duty, and common honesty engage them to practise, the almost only rule of action, and motive to it, compatible with that encouragement, which it is proper to give every new settler in every country, especially foreigners, in such a country as America."

* "As to the fact of a strenuous opposition to the Stamp Act, I sat as a stranger in your gallery when the act was under consideration. Far from any thing inflammatory, I never heard a more languid debate in this House. No more than two or three gentlemen, as I remember, spoke against the act, and that with great reserve and remarkable temper. There was but one division in the whole progress of this Bill; and the minority did not reach to more than 39 or 40. In the House of Lords, I do not recollect that there was any debate or division at all. I am sure there was no protest. In fact, the affair passed with so very, very little noise, that in town they scarcely knew the nature of what you were doing. The opposition to the Bill in England never could have done this mischief, because there scarcely ever was less of opposition to a Bill of consequence." Mr. Burke's Speech on American Taxation.

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have made you the motion I shall now make, had I not been promised the assistance and support of my most worthy, learned, and honourable friend, whose abilities as a lawyer, and whose integrity as a member of parliament, claims so respectable a character in this country.

There is a weed, Sir, which has taken so deep a root in this free soil; and has, at times, been of so rampant a growth, as to well nigh have overshadowed the fairest flowers in the plain. The weed that I mean, Sir, is that practice of the Attorney General filing bills of Information *ex officio:* a practice so diametrically opposite to every part of this constitution!

I shall probably be told, 'that it has been adjudged; that the old statutes enact that proceedings shall be by presentment or indictment; that informations are but presentments; and that informations were at common law.' Not by Attorney Generals, nor could one instance be brought to prove the practice, earlier than the date in which I shall fix their commencement; for, should some old musty revenue laws be brought out of the Exchequer, giving such power, will it at all affect the foundation I shall build my opposition to it upon?

I shall not now hesitate a moment, Sir, in pronouncing this practice a legitimate offspring of that accursed court, the court of Star Chamber. I shall probably be told, that the court of Star Chamber is a court of as old an institution as most in the kingdom. Sir, that court, which in its first institution was nothing more than for the better governing the king's household, under a series of bad kings, and worse ministers, became one of the most severe scourges this country ever was oppressed with.

Sir, I shall date the growth of this evil from the reign of that avaricious prince, Henry 7; and though possibly one instance of an information may be found of an earlier date, it is from this period this evil first took any root in this constitution. One instance produced, and not followed with a subsequent practice, shews very plainly the reception it met with, even at that time.

I shall give it, Sir, to the honour of those two great patriots, Empson and Dudley, whose fame, Sir, will be suspended to all future ages, as their bodies were when living, a terror to all proud, daring, profligate ministers.

We find, Sir, this power carried on through the succeeding reigns, constantly accompanying the court of Star Chamber, down to the reign of Charles 1, when the very vigorous use of it in the beginning of that king's reign, against all those who presumed to dispute 'the prerogative royal,' as it was then called, brought on the general resentment of the nation, and the abolition of the act of Star Chamber, July 5th, 1641.

It is well worth observing, that from that time to the Restoration, not the least shadow of an information by the Attorney General appears.

Upon the Restoration, Sir, on the return of that merry king, Charles 2., and his patriot brother, the duke of York, this practice is revived. These kings wanted then more powers than the laws could give. The court of Star Chamber being at an end, it was thought this offspring of the Star Chamber was now strong enough to walk alone; and accordingly, this power of the Attorney General, at filing bills of Information *ex officio*, was revived, and continued in its fullest force, till that blessed era of our liberties, that era which so much graces the annals of our history, when this country, by its two Houses of Parliament, marked out, fixed and determined, the power of all succeeding kings in this country.

It may be argued, If this was then so great a grievance as urged to be, how came it not to be remedied at that time, when you had a king both willing and desirous of coming into any measures which might be thought for the future security of the liberty of the subject? Sir, the committee which then sat for the redress of grievances, reported to the House, article 22d,—"Informations from the court of King's-bench to be taken away."—"It was agréed to by the House:" and the only good reason which can be given why they were not then taken away, is the great weakness of the government at that time; and the great interest the abdicated monarch still had in the kingdom. The government, Sir, was then young, and wanted every prop and assistance it could lay hold on.

The act which passed the 4th and 5th of William and Mary, which in some degree lessens the power of the master of the crown office, gave some relief between subject and subject, as it obliges the informer to enter into bond of 20*l.* penalty (a paltry recognizance) to carry his suit to an issue; and likewise gives costs; but there is a clause in this act, which declares

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that act shall extend only to informations from the master of the crown office, so that the power of the Attorney General remains as before the passing this act.

This, Sir, I think, is the fair state of the power exercised by the Attorney General of filing bills of Information *ex officio*.

It may now be asked, and I think fairly too, what reasons have you to urge, why a practice of so long a continuance should at this time be put an end to? And what have you to shew, that shall convince a majority of this House of its inconsistency with the liberty of this free country?

A succession, Sir, of acts of parliament from the Great Charter to this hour, which in spirit and letter diametrically oppugn every part of this practice.

Sir, by the Great Charter, I am not to be passed upon or condemned, but by lawful judgment of my peers, viz. I cannot be put upon my trial before a jury has found sufficient reason, either from their own knowledge, or from evidence upon oath, to return a free bill against me; I am then put upon my trial, and if I am found guilty of what I am charged by another jury, the law punishes me.

This is confirmed by the 5th of Edward 3, 25th Edward 3, (which says none shall be condemned by suggestion, with out lawful presentment;) 28th of Edward 3; 42d of Edward 3, (none shall be put to answer to an accusation made to the king without presentment or some matter of record;) 2nd of Charles 1; Petition of Right, 16th of Charles 1, the preamble of which you have heard read. The Bill of Rights, 1st of William and Mary. Lastly, by the Act of Succession, which puts the crown upon the head of his present Majesty.

It may possibly be said, that the pleading the statutes would be of no effect in a court of law, since the cause has been already decided, and these informations declared legal.

Sir, I should not think that even these informations having been declared legal in a court below, would at all take off from the weight these statutes must have in this House.

Sir, I have ever looked upon Magna Charta as the fundamental, invariable, unalterable basis of this constitution; I say, Sir, unalterable: I do not think it in the power of the three parts of the legislature, King, Lords, and Commons, to take away the spirit and essence of Magna Charta. I think, Sir, every part of this free constitution is limited; the three parts of the legislature connected, have no more right to take away the liberties of the people, than any one of them singly. The contrary would be one of the most absurd propositions that ever entered into the head of man to conceive; to think that this House, invested only with a secondary power of acting, merely for the good and preservation of the people, should think themselves authorised to destroy that primary power, for whose sole defence and preservation they were created.

But, Sir, if these ancient boundaries, these coeval land-marks of the constitution, should not have that attention paid them in this House, which I shall ever expect till I see the contrary, let gentlemen reflect upon the situation they leave their fellow subjects in.

I may give a minister displeasure with what I have this day done; instead of a bill of presentment or indictment found against me by my peers, this monster, this *diabolus regis*, stalks into court, teeming with destruction, like the Trojan horse with the Star Chamber in his guts,

———Scandit fatalis machina muros
Fœta armis———

by his own authority files an Information in the King's name, which the judges cannot refuse, nor has the defendant any privilege to shew cause against it; I must plead *instanter*, though I never heard the information read before that moment. Possibly he may drop this information, file another, for he is not obliged to carry the suit to an issue. If I am at last suffered to carry the cause to an issue, and am honourably acquitted by a jury of my countrymen; the crown being exempted by prerogative from paying costs, though an innocent man, I may be involved in an insupportable offence, or be punished without conviction. Thus bad ministers have it in their power to harass any the best-designing men with frivolous and vexatious prosecutions.

It was said by sir Francis Winnington, in his pleadings in Prynn's case, concerning a riot, that the judges were no friends to this practice; that one of them (lord chief justice Hales) he remembered to have heard say, 'That if ever these informations came to be disputed, they could never stand, they must fall to the ground.' As I neither knew sir Francis Winnington, or lord chief justice Hales, I can

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only tell the House what lord chief justice Hales has wrote. In his History of the Pleas of the Crown, he says, 'That in all criminal causes, the most regular and safe way, and most consonant to Magna Charta, and the other ancient statutes, is by presentment or indictment of twelve sworn men.'

I beg the pardon of the House for detaining them so long from hearing my hon. and learned friend, who will fling lights upon this subject before the House, more convincing than I can be imagined able to do: I shall therefore beg leave to move, "That leave be given to bring in a Bill for relief of his Majesty's subjects, touching Informations in the King's-bench, by and in the name of his Majesty's Attorney General."

Mr. Serjeant *Hewitt* (who was afterwards created lord Lifford, upon being appointed lord chancellor of Ireland) seconded the motion, in which he stated the abuse and the danger of the practice of filing informations *ex officio*; but in so cold a manner, that the motion may be said to have received no material support from his speech.

The motion was negatived by 204 against 78.

*Motion in the Commons respecting the Dismission of General Conway and others.**] Upon a motion made a little time afterwards, respecting the dismission of general Conway and others,

Mr. *Nicholson Calvert* spoke as follows:

Mr. Speaker; I am neither Jacobite, or Republican, nor Tory, thank God!* but an adorer of this constitution! I honour, Sir, and revere the King as first magistrate in this country, with a prerogative (as Mr. Locke explains the meaning of that word) of doing public good without a rule; but not the least power or pretension of offering an injury to any one. The King would then do no wrong! the King can do no wrong by this constitution! I honour him, Sir, sitting at the head of his privy council, by whom he is advised in all matters appertaining to the good government of this country; each

* "The administration being now in the meridian of their power, and, in their own idea, firm and immovable, they resolved to chastise some of their military enemies, who had dared to oppose them upon those questions which so eminently threatened their dissolution. The first of these, whom they thought proper to mark for punishment, was general Conway. He had a regiment, and was moreover a groom of the bedchamber to the King; the former was taken from him, and from the latter he was dismissed. This conduct instantly created an alarm. It was considered by the public as an attempt to destroy the freedom and independency of parliament; and by the officers of the army as a peculiar hardship, and a disgrace to their profession, no reason being assigned for the general's disgrace. It must slacken the zeal of officers (said one of general Conway's friends) when they see that, after a life spent in the service, they are liable to be turned adrift, to satisfy the vengeance of ministers, and for causes no way connected with the profession. It affects the honour of officers, as it inclines men without doors to suspect that they act under fear of losing their employments. It indisposes their countrymen to chuse them into parliament, as an officer can no longer be supposed a free agent. The public is hurt, if the rights of parliament are violated, and if punishment, which is only due to crimes, is inflicted on incorruptible honesty and conscientious virtue. It is hurt, if ministers revenge their own animosities on the servants of the King and the nation, and if they in effect declare, that to defend the liberties of the people, subjects the guardians of those liberties to proscription.

"These dismissions (continued the same advocate) have sometimes been exercised against men who have been regular and forward in opposition, as in the cases of the duke of Bolton, the lords Westmoreland and Cobham. But general Conway's conduct was very different from that of those noble lords; they were fixed and determined opponents to the then minister; he was enlisted in no opposition, and upon the report being propagated that he was, he declared to a minister, before witness, "that he was not, nor intended to be engaged in opposition." He gave but one vote against the minister; for he voted with the majority upon every question against Mr. Wilkes, and was several times up to speak, though never pointed to. He likewise voted with the ministry upon the Excise, and every other question throughout the whole session, except the single affair of the Warrants. This dismission was therefore singular, and could not fail exciting very strong remarks. But whether the clamour raised by it, and the apparent disgust with which it was received by the army, or whether the administration thought this example sufficient to fix their wavering friends, or what other causes prevented a number of other dismissions of the like kind, certain it is, they were not made, although they had been threatened." History of the Minority, p. 291.

* Lord Strange had in a former debate flung out that he was neither a Republican nor Jacobite.

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privy counsellor is responsible for the advice he shall give his sovereign.

I revere him, Sir, as a magistrate in whom the whole executive part of government is lodged; and having the executive part of government in his hands, undoubtedly the power of promoting or discarding officers. But that, like every other of his prerogatives, must be exercised for the good of his people, for whose support and protection he is made a king.

This, Sir, is my idea of the constitution. If any gentleman's ideas carry him still farther, even to imagine that the King has that power in a much higher degree than what I have stated, and that no one is responsible, even to this House; but that it is sufficient to say—the King has done it; he chose to do it; you have no right to ask why or wherefore: that gentleman will be so good as to inform me, where I shall find such a power lodged in the crown by the constitution, not in the act 13th of Charles 2; that act, Sir, gives no more power than what then was, and always had been in the crown of England; not in the act 17th of Edward 3, called the *prerogativa regis*, that act, Sir, gives no such power. It is not to be found in the act of the 27th of Henry 8, which is a confirmation of the former act; that, Sir, gives no such power. Where then am I, Sir, to look for this high prerogative royal! I will tell gentlemen, where I will ever look for conviction in matters of this high importance, in those long, dry, tedious, but instructive remonstrances, which passed between the king and parliament in the times of Charles 1. They were drawn up, Sir, on both sides, by men the most able, the most informed, most conversant in every part of this constitution, that perhaps ever lived in any country.

The true constitutions of countries are not to be learned, Sir, in peaceable quiet times; but by studying their different revolutions, and searching out the causes from whence those revolutions took their rise; this is it that makes the statesman.

Whoever will give himself the trouble to look into that great historian, lord Clarendon, will find the very point before us sifted to the bottom.

Sir John Hotham denies the king's entrance into Hull.

The king proclaims him a traitor.

No, says the House of Commons, the law must proclaim a man a traitor. The king urges it as the greatest breach of private property that ever passed between subject and subject, that he had as much a right to his forts and garrisons, as any private man had to his lands and estates; that he had as good a right to the ammunition, ordnance, &c. therein, as any private person had to his jewels, plate, or any other furniture; and he had not only claimed this right, but exercised it; for in the beginning of his reign, he had sent eight ships of war under the command of captain Pennington, with an order that he should surrender them to the French king; and if any other of the captains refused obeying the order, he was immediately to sink them. They were surrendered to the French king, and it was by this force the Rochelle Protestants were subdued.

But, Sir, there was not wanting, even in that day, one patriot officer, sir Ferdinando Gorges; who, in contempt of those orders, and in despite of the obsequious Pennington, brought his ship home to the Thames.

These were the prerogatives the king laid claim to.

What said the Commons? They urged, that his majesty's pretensions were subversive of every part of the law and the constitution; that if his majesty had that right he laid claim to, they were all his slaves and minions; that if he had the same right in his forts and garrisons as they had in their private estates; the same right to the ammunition, ordnance, &c. as they had in their jewels, plate, or furniture, what should hinder his majesty from selling not only his kingdom, but his subjects, to the best bidder; that they conceived the trust that was reposed in his majesty were for the good and preservation of his people; that if his majesty made use of that force, which was invested in him merely for their preservation, to their destruction, he certainly broke through his coronation oath.

These, Sir, were the arguments made use of by the then House of Commons. I think, Sir, they were warranted by the law and constitution of this country. Most certainly, had the king had any such power as was here set up, from that moment the nation must have ceased to have been that free people they have always imagined themselves to be.

Had the crown that power that was then contended for, what havoc might not a bad or ill-advised king make in this constitution! Might not the army be garbled and modelled into the situation this House once knew it? What could an un-

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armed parliament do, or rather what might they not be compelled to do, by such an armed force at their doors? Sir, this House once voted an army to be divided and disbanded. But alas! that army despised those votes; they said they would neither be divided nor disbanded; that those who voted for their disbanding were their enemies; that their enemies should never be their judges; that it was time the House should be purged, and a period put to their sitting.

I have ever thought, Sir, that the army composed of officers, many of them of the best figure and fortune in this country, voted as they are from year to year, supported and maintained by the kingdom, the best and safest model of defence ever formed in any country.

You will here see what is rarely to be met with in any other country, and what is no rare thing here; men, equally capable of civil as of military employments: the same men great generals in the field, great legislators in the senate: and lest their ardour in the latter should be checked by that subordination which is necessary to be preserved in the former, you have marked out, ascertained, and totally disunited the civil and military functions.

The Mutiny and Desertion Act, which receives annually the consent of the three parts of the legislature, sets forth the crimes a soldier may be guilty of, and gives the crown a power to appoint court martials, to take cognizance of their offences.

When an officer becomes a member of this House, nothing he can say or do here can bring him under any part of that law. He sits here not as a soldier, but as a senator: the law of the land, the Bill of Rights says, no member of this House shall be questioned or punished in any court or place out of parliament, for what is said or done in parliament.

But gentlemen will say, who has been punished or questioned in any court or place out of parliament, for what has been said or done in parliament? We know of none.

I can only say, Sir, that when great officers of long and respectable service (to whom their greatest enemies do not pretend to imply any the least fault in their military capacity, but, on the contrary, the whole world join in their praise and commendation) are disgraced and discarded without any the least shadow of reason assigned, other than what may be imagined from their conduct here, I think it high time for this House to make enquiry.

If we look back into the history of this country, Sir, we shall find, that whenever men of a particular cast of mind, known by the name of Tories, get any footing in the government, violent measures ever ensue.

If there are any such in the present administration, and they have really a mind to work a change in the constitution, by flinging more power into the hands of the crown, than what the present constitution of this country may allow of: why so violent? Why so hasty? Let them recollect Sylla, by the impetuosity of his temper, precipitated the Romans into liberty: Augustus, who best knew mankind, gently led them into slavery.

Proceedings in the Lords on a Complaint of advertising Two Indian Warriors to be shewn.] March 5. Notice being taken to the House, and complaint made, of an advertisement in the printed newspaper, intituled, "The Gazetteer and New Daily Advertiser, Monday, March 4th, 1765," "That there is to be seen, at the Sun Tavern, facing York Buildings in the Strand, two Indian Warriors of the Mohawk nation, from ten in the morning till six in the evening; each person to pay one shilling." Ordered, That the person who keeps the Sun-tavern facing York Buildings in the Strand do attend this House to-morrow.

March 6. The House being informed, "That John Schuppe, who keeps the Sun-tavern in the Strand, where the two Indians are shewn, and Hyam Myers, were attending without, pursuant to their lordships' order."

The Earl of Sandwich acquainted the House with the purport of a letter which he received from sir Joseph Yorke, his Majesty's ambassador in Holland, relating to the said Indians, when they were there; and the directions given by his excellency for their being brought to England, in order to their being carried back to America. Then the said John Schuppe and Hyam Myers were called in, to the bar.

And the said John Schuppe, being examined in relation to the shewing of the said Indians, acquainted the House, "That the said Hyam Myers hired a room of him for eight days, in order to shew two Indian Warriors he had brought

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from America; that they have been shewn there for eight days, at 1*s.* each person; that they have their meals regularly, and drink nothing stronger than small beer."

The said Hyam Myers being also examined, acquainted the House, "That, about eleven months ago, he was at New York; and being about to come to England, the two Mohawks that are now with him came down to New York, and desired him to bring them to England to see their father; but, having no money to pay their passage, he first consulted his friends about it, who advised him to bring them over, as he might reimburse himself the expence of their passage by shewing them; that accordingly he brought them to England, and landed at Bristol, where he left them with their interpreter while he came up to London; that, during his absence, the interpreter carried one of them to Amsterdam, and there sold him; that, upon the first knowledge of this transaction, he immediately went to Amsterdam, in order to recover him, and took the other Mohawk with him; but, notwithstanding all his endeavours, he could not get him again, being cast in a cause which he instituted there for that purpose; that, upon this, he went to the Hague, and applied to sir Joseph Yorke, desiring him to procure the said Mohawk's release; that, some time afterwards, he was directed by sir Joseph Yorke to return to Amsterdam, and he would have the Mohawk delivered to him; and at the same time, sir Joseph desired him to carry them back to their own country, by the way of England, telling him, he would write in his behalf to the Secretary of State, to whom he directed him to apply on his arrival in England: that he accordingly brought them to England, but, being distressed for money, he had shewn them in order to reimburse himself the expence he had already been at, and also to enable him to carry them back to their own country; but acknowledged he had made no application either to the Secretary of State, or to the Board of Trade."

Resolved, 1. That the bringing from America any of the Indians who are under his Majesty's protection, without proper authority for so doing, may tend to give great dissatisfaction to the Indian nations, and be of dangerous consequence to his Majesty's subjects residing in the colonies. 2. That the making a public shew of Indians, ignorant of such proceedings, is unbecoming and inhuman.

Then it was moved, "That the said John Schuppe and Hyam Myers be called in again, and ordered not to shew the said Indians from this time, but to detain them, taking proper care of their maintenance, till a proper person should be sent by the commissioners for trade and plantations to receive them, in order to their being returned to America." Which being agreed to; they were called in again accordingly, and acquainted therewith by the Lord Chancellor.

The King's Speech recommending the Consideration of a Regency Bill.] April 24. His Majesty came down to the House of Lords, and made the following Speech to both Houses:

"My Lords, and Gentlemen;

"The tender concern which I feel for my faithful subjects makes me anxious to provide for every possible event, which may affect their future happiness or security.

"My late indisposition, though not attended with danger, has led me to consider the situation in which my kingdoms and my family might be left, if it should please God to put a period to my life, whilst my successor is of tender years.

"The high importance of this subject, to the public safety, good order, and tranquillity; the paternal affection which I bear to my children, and to all my people; and my earnest desire that every precaution should be taken, which may tend to preserve the constitution of Great Britain undisturbed, and the dignity and lustre of its crown unimpaired; have determined me to lay this weighty business before my parliament: and, as my health, by the blessing of God, is now restored, I take the earliest opportunity of meeting you here, and of recommending to your most serious deliberation the making such provision as would be necessary, in case any of my children should succeed to the throne before they shall respectively attain the age of eighteen years.

"To this end, I propose to your consideration, whether, under the present circumstances, it will not be expedient to vest in me the power of appointing, from time to time, by instrument in writing, under my sign manual, either the Queen, or any other person of my royal family usually residing in Great Britain, to be the guardian of the person of such successor, and the regent of these kingdoms, until such successor shall attain the age of eighteen

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years; subject to the like restrictions and regulations as are specified and contained in an act passed upon a similar occasion, in the 24th year of the reign of the late king my royal grandfather: the regent so appointed to be assisted by a council, composed of the several persons, who, by reason of their dignities and offices, are constituted members of the council established by that act, together with those whom you may think proper to leave to my nomination."

Joint Address of both Houses thereon.] As soon as the Commons had returned to the House, this Speech was read to the House by the Speaker; and presently after it was read, they received a message from the Lords, to desire that they would continue sitting for some time, which they agreed to do; and in the mean time went upon some other business then depending before the House, until they received another message from their lordships to acquaint them that the Lords had agreed upon an Address to be presented to his Majesty, to which their lordships desired the concurrence of that House, which, after reading the Address, was agreed to; and the blank therein being filled up with the words 'and Commons,' Mr. Chancellor of the Exchequer was ordered to carry the said Address to the Lords, and acquaint them, that the House had agreed to the same. The Address was as follows:

"Most Gracious Sovereign,

"We your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons, in parliament assembled, presume to approach your sacred person with our warmest acknowledgments of the peculiar goodness expressed in your most gracious Speech from the throne.

"We humbly intreat your Majesty's acceptance of our heartiest congratulations upon your recovery from your late indisposition. Your Majesty's return to your parliament has dissipated all those anxious sensations which the occasion of your absence had excited: and as the re-establishment of your invaluable health is an object to your faithful people of the sincerest joy and exultation, your Majesty has shewn a most affectionate regard to their satisfaction, in condescending to take the earliest opportunity of giving them so pleasing a proof of it.

"This great mark of your Majesty's attention must demand our most sincere and dutiful thanks: but we have before us a still more engaging instance of your watchful solicitude for our future security and happiness.

"The constant tenor of your just and constitutional government, distinguished and endeared to your kingdoms by an unwearied application to the advancement of their interest and prosperity, had already filled our minds with a most cordial sense of gratitude. The new proof which your Majesty is now pleased to give us of your truly paternal tenderness, by extending your concern for the stability, dignity, and lustre, of your crown, with all the happy effects of your love to your royal children and to your faithful subjects, beyond the period of your own continuance among them, must inspire us with still higher degrees, if possible, of reverence and affection.

"Whilst we contemplate with admiration that magnanimity which enables your Majesty to look forward, with a cool composure of thought, to an event which, whenever it shall please God to permit it, must overwhelm your loyal subjects with the bitterest distraction of grief; we cannot but be deeply affected with that compassionate sentiment of your royal heart, which suggests a provision for their comfort under so severe an affliction.

"May it please the Divine Providence to exempt us from the fatal necessity of such a consolation! Your Majesty has shewn, from the first day of your auspicious reign, so conscientious a regard to the laws and liberties, the religious and civil rights, of your kingdoms, that we should be insensible and unworthy of the happiness we ourselves enjoy, if we did not ardently wish to transmit it under the same gracious care and protection to our children.

"Yet, feeling, as we do, the infinite importance of every measure that may tend to the perpetuating in all events our happy constitution; in deference to your Majesty's recommendation, and under a full conviction of that consummate prudence and beneficent intention which were the motives of it, we will not fail to apply ourselves to the immediate discussion of the high and momentous object which your Majesty has been pleased to propose to our consideration.

"Our deliberations concerning it will be animated by the hopes of securing to our posterity, under the blessing of Almighty God, and in concurrence with your Majesty's salutary designs, the ines-

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timable blessing of a legal Protestant Succession to the crown of these realms in your royal family; and will be influenced by a just confidence in your princely wisdom, and paternal concern for your people.

"We shall go into this consultation with a sensible anxiety, arising from the subject of it: but we humbly assure your Majesty, that we will conclude it with all the dispatch compatible with its singular importance; repeating at the same time our earnest supplications, that, through the mercy of God upon this Protestant church and nation, a precaution so expedient in prospect may become useless in the event, by your Majesty's living to form, under your own instruction, a successor worthy to inherit the allegiance and affections of a free people, by a long and mature attention to the example of your royal virtues."

The King's Answer.] To this Address his Majesty answered:

"My Lords and Gentlemen,

"Your affectionate congratulations upon my recovery, and the sense which you express of your happiness under my government, give me the greatest satisfaction.

"Be assured, I have not a more sincere concern, or a more earnest desire, than to secure to myself and faithful people, both now and hereafter, the religious and civil blessings of our invaluable constitution."

*Proceedings on the Regency Bill.**] As the Lords had, in pursuance of his Majesty's Speech, ordered a Bill to be brought in, "to provide for the administration of government, in case the crown should descend to any of the children of his Majesty, being under the age of eighteen years, and for the care and guardianship of their persons:" nothing was done in the Commons, after the report of his Majesty's said Answer to the joint Address of the two Houses, until the 6th of May, when the House received a message from the Lords, that their lordships had passed a Bill, entitled, as above mentioned, to which they desired the concurrence of that House; and the Bill having been carried up to the table, as soon as the messengers were withdrawn, it was read a first time, and ordered to be read a second time the next morning; but before that order was next day read, a motion was made, "That an humble Address be presented to his Majesty, humbly to acknowledge his Majesty's great goodness, in proposing to secure the future quiet and peace of these kingdoms, by making a settled provision for a regency and for the guardianship of his children, in case (which God avert) these kingdoms should be deprived of the blessing of his Majesty's most invaluable life, before his royal successor shall have attained the age of eighteen years; and humbly to intreat his Majesty, out of his tender and paternal regard for his people, that he would be graciously pleased to name the person, or persons, whom, in his royal wisdom, he shall think fit to propose to the consideration of parliament, for the execution of those high trusts; this House apprehending it not warranted by precedent, nor agreeable to the principles

* "The King having, in his Speech which introduced this business, particularly asked, Whether it would not be expedient to vest in his Majesty the power of appointing the Queen, or any other person of the royal family, usually residing in Great Britain, to be regent of these kingdoms, and guardian of his successor, until he should be eighteen? The Bill was brought in giving such power; but a doubt arising concerning the extent of the explanation of the words, "or any other of the royal family," it was affirmed, that the present royal family were only descended from the late king. The royal construction of those words was asked; and it was understood from authority, and the best public authority of the time, that that construction and the previous affirmation were the same. The Bill passed the Upper House, declaring the royal family to be only the descendents of the late king; which excluded the princess dowager, who was of another family. The administration, to whom the Bill was never supposed to be agreeable, are spoken of as considering this a kind of victory over lord Bute, whose particular views were thought to be destroyed by this exclusion, which was accomplished without a manifest opposition to the Bill. But when it came into the Commons, a motion was made and supported by lord Bute's friends, to insert her royal highness's name; to which the House agreed. And with this amendment it went back to the Lords, where it met with no second opposition. But the following Speech was said to have been intended to be spoken upon this occasion:

A SPEECH intended to have been spoken when the Commons returned the Regency Bill, with an Amendment respecting the Princess Dowager.

"My lords; I hope your lordships will find no difficulty in disagreeing with the House of Com-

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of this free constitution, to vest in any person or persons, not particularly named and approved of in parliament, the important offices of regent of these kingdoms, and guardian of the royal offspring, heirs to the crown." It passed in the negative: and then the Bill being read a second time, it was committed to a committee of the whole House for the 9th; after which a motion was made for having the Bill printed, which was likewise carried in the negative, by 117 against 18.

May 9. As soon as this order of the day was read, his Majesty's Speech to both Houses of Parliament, on the 24th of April, was ordered to be referred to the said committee; and the House then having resolved itself into the same; Mr. Morton moved, by way of amendment, to insert in the Bill, after the Queen, "her royal highness Augusta princess dowager of Wales." The Report of the committee was ordered to be made next morning. Upon this amendment the House divided, 167 were for it, and 37 against it. With this amendment the Bill was sent to the Lords, who agreed to it, and on the 15th the Bill received the royal assent.*

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mons in regard to this extraordinary Amendment. I call it extraordinary, my lords, because the resolution, which your lordships came to upon this clause in the Bill, was founded upon an implied, and (as your lordships considered it) an authentic request from the crown, delivered to this House by one of the first ministers of *his Majesty*; to which your lordships did accordingly *give* an immediate and serious attention, and a most unanimous approbation.

"I take it for granted, that the persons who moved for this alteration in the other House, were men of undoubted loyalty, and therefore I will not enquire into the date or complexion of their loyalty. But I cannot comprehend, my lords, what unintelligible and unostensible influence could turn the hearts of that great assembly as the heart of one man, and call upon them to reject an article of the Bill, so properly founded upon a declaration of his Majesty's inclinations, and so unanimously assented to by your lordships. Was it because they were better acquainted and more impressed with the virtues of the royal person, who is the object of this Amendment? Your lordships, I suppose, will not give way to the House of Commons, in doing all the justice to the character of this great princess; most certainly, my lords, the King himself will not be behind hand with the body of his subjects, in shewing every proper mark of affection to his royal mother. And yet, my lords, both the king and your lordships saw very wise reasons for what you did; your lordships treated the matter, so circumstanced, with a steadiness which became you; with the utmost delicacy, and without any improper explanations upon so nice a subject.

"I think there was no undutiful intimation contained in this method of proceeding. But it seems the House of Commons were determined to uncover the veil. If they did it to show their superior regard to his Majesty, they are contradicted by the only public evidence of his royal inclinations. If they did it to show their contempt of such of his Majesty's ministers as sit in this House, they acted (at least, as I think) not a very wise part, because not a reconciling part, but yet such a one as the freedom of that great and respectable assembly has ever entitled, and I hope in God will ever entitle them to. But in the midst of this strange and unaccountable fluctuation of things, what will the wise and the honest part of the world without doors think of this unfortunate country? What can they think, my lords, but that we have really and truly no ministers at all; and that every thing is done and undone (even in the highest and most important concerns of this kingdom) by the hint or the whisper of some idol in a corner? If such a one there be, my lords, I hope he will be found out in due time, and be treated, I will not say as he deserves, but consigned to some inoffensive situation, where he may be at liberty to contemplate the folly and vanity of his ambition, as it may affect his own person, and the danger and wickedness of it, as it may affect the true and lasting interest of his royal gracious master.

"In the mean time, my lords, I think we cannot better shew our duty to the King, and our regard to the dignity of this House, than by disagreeing with the Commons in this Amendment." History of the Minority, p. 314.

* "On the day when the King in person gave his assent to the Regency Bill, a mob of journeymen silk-weavers went to St. James's, with black flags, for the purpose of petitioning for relief, under pretence that they were reduced to a state of famine by the encouragement of French silks. They behaved in a most tumultuous manner, surrounding both Houses of Parliament, and insulting many of the members. They again assembled on the two following days, and proceeded to commit other outrages; but were at length repressed by the *posse comitatus* and the military who were called in to aid the civil power. A proclamation was issued for the suppressing of riots, and some of the parties were brought to condign punishment." Adolphus.

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Supplies granted for the Year 1765.] The following are the Resolutions passed by the Committee of Supply for the service of the Year 1765.

	£.	s.	d.
JANUARY 22.			
That 16,000 men be employed for the sea service for 1765, including 4,287 marines.			
That a sum not exceeding 4*l.* per man per month, be allowed for maintaining them, including ordnance for sea service	832,000	0	0
JANUARY 24.			
That a number of land forces, including 2,628 invalids, amounting to 17,421 effective men, commission and non-commission officers included, be employed for 1765.			
That for defraying the charge of this number of effective men, for guards, garrisons, and other his Majesty's land forces in Great Britain, Guernsey, and Jersey, for 1765, there be granted to his Majesty a sum not exceeding	608,130	10	7
For maintaining his Majesty's forces and garrisons in the Plantations, including those in garrison at Minorca and Gibraltar, and for provisions for the forces in North America, Nova Scotia, Newfoundland, Gibraltar, and the ceded islands for 1765	337,502	3	11½
For defraying the charge of the difference of pay between the British and Irish establishments of five regiments of foot, serving at Gibraltar, Minorca, and the ceded islands for 1765	6,346	3	5
For the pay of the general and general staff officers, in Great Britain, for 1765	11,291	8	6
To enable his Majesty to defray the charge of the subsidies due to the duke of Brunswick, pursuant to treaties, for 1765	10,343	16	9
Upon account, towards defraying the charge of out-pensioners of Chelsea hospital, for 1765	109,107	18	4
For the paying of pensions to the widows of such reduced officers of the land-forces and marines, as died upon the establishment of half pay in Great Britain, and who were married to them before the 25th Dec. 1716, for 1765	1,664	0	0
Upon account of the reduced officers of the land forces and marines, for 1765	135,606	12	6
For defraying the charge for allowances to the several officers and private gentlemen of the two troops of horse guards, and regiment of horse reduced, and to the superannuated gentlemen of the four troops of horse guards, for 1765	2,361	14	8
For the charge of the office of ordnance for land service, for 1765	174,073	15	10
For defraying the expence of services performed by the office of ordnance for land service, and not provided for in 1764	55,519	10	7
	1,502,547	14	8
JANUARY 28.			
For the ordinary of the navy, including half pay to sea and marine officers, for 1765	407,734	11	3
Upon account, to be applied by the governors, of Greenwich hospital, for the support and relief of seamen, worn out and become decrepit in the service of their country, who shall not be provided for within the said hospital	5,000	0	0
Towards the buildings, rebuildings, and repairs, of the navy, for 1765	200,000	0	0
	612,734	11	3
FEBRUARY 5.			
For defraying the extraordinary expences of his Majesty's land forces, and other services incurred, between the 24th Dec. 1763, and the 25th of Dec. 1764, and not provided for	404,496	7	6
MARCH 12.			
Towards discharging bills payable in course of the navy and victualling offices, and for transports	1,500,000	0	0
MARCH 18.			
For paying off, and discharging the exchequer bills made out by an act of the preceding session, and charged upon the first aids to be granted in this session	800,000	0	0
To be applied towards finishing and completing the works for improving, widening, and enlarging, the passage over and through London bridge	7,000	0	0
	807,000	0	0

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MARCH 19.

Upon account, for defraying the charge of the pay and clothing of the militia, for one year, beginning the 25th of March 1765	80,000	0	0
To replace to the sinking fund the like sum paid out of the same, to make good the deficiency on the 5th of July 1764, of the several rates and duties upon offices and pensions, and upon houses, and upon windows or lights, which were made a fund, by an act of the 31st of his late Majesty, for paying annuities at the Bank, in respect of 5,000,000*l.* borrowed towards the supply of 1758	48,176	1	11½
To replace to ditto, the like sum paid out of the same, to make good the deficiency, on the 10th of October 1764, of the several additional duties upon wines imported, and certain duties upon cyder and perry, which were made a fund, by an act of the third of his Majesty, for paying annuities in respect of 3,500,000*l.* borrowed towards the supply of 1763	49,742	1	2½
To replace to ditto, the like sum issued thereout, for paying annuities after the rate of 4*l.* per cent. for the year ending the 29th of September 1764, granted in respect of certain navy, victualling and transport bills, and ordnance debentures, delivered in and cancelled, pursuant to act of the third of his present Majesty	139,342	3	4
	317,260	5	6

MARCH 26.

To make good the deficiency of the grants for 1764	249,660	4	10
On account, towards assisting his Majesty to grant a reasonable succour in money, to the landgrave of Hesse Cassel, pursuant to treaty	50,000	0	0
Upon account, for maintaining and supporting the civil establishment of Nova Scotia, for 1765	4,911	14	11
Upon account of sundry expences for the service of Nova Scotia in the years 1750, 1751, 1752, 1762, 1763, and not provided for	7,000	0	0
Upon account, for defraying the charges of the civil establishment of Georgia, and other incidental expences attending the same, from 24th June 1764, to 24th June 1765	3,966	0	0
Upon account, for defraying the charges of the civil establishment of East Florida, and other incidental expences attending the same, from 24 June 1764, to 24 June 1765	5,200	0	0
Upon account, for defraying the charges of the civil establishment of West Florida, and other incidental expences attending the same, from 24 June 1764, to 24 June 1765	5,200	0	0
Upon account, for defraying the expence attending general surveys of his Majesty's dominions in North America, for 1765	1,601	14	0
Towards building a Lazaret	5,000	0	0
	332,539	13	9

MARCH 28.

That one fourth part of the capital stock of annuities, after the rate of 4*l.* per cent. per ann. granted in respect of certain navy, victualling, and transport bills, and ordnance debentures, delivered in and cancelled, pursuant to an act of the third of his present Majesty's reign, be redeemed and paid off on the 25th of December next, after discharging the interest then payable in respect of the same.

For enabling his Majesty to redeem and pay off one fourth part of the capital stock of the said annuities	870,888	5	5½

APRIL 2.

Upon account, towards discharging such unsatisfied claims and demands, for expences incurred during the late war in Germany, as appear to be due by the reports of the commissioners, appointed by his Majesty, for examining and stating such claims and demands	248,259	15	4
Upon account, out of the monies remaining to be applied of the exceedings of the several sums provided by parliament for sundry services, and of the monies that have been paid into the hands of the paymaster general, by contractors and others, to the 23d of March 1765, towards discharging such unsatisfied claims and demands	251,740	0	7

For paying a bounty for 1765, of 2*s.* 6*d.* per day, to fifteen chaplains, and of 2*s.* per day, to fifteen more chaplains, who have served longest on board his Majesty's ships of war; provided it appears by the books of the said ships, that they have been actually borne and mustered thereon, for the space of four years, during the late war with France and Spain; and

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provided likewise, that such chaplains do not enjoy the benefit of some ecclesiastical living or preferment from the crown, or otherwise, of the present annual value of 50*l.*	1,231	17	6
Upon account, towards enabling the governors and guardians of the Foundling hospital, to maintain, and educate, or to place out as apprentices, such children, as were received into the said hospital, on, or before the 25th of March 1760, from the 31st of December 1764, exclusive, to the 31st of December 1765, inclusive, and that the same be issued and applied, for the use of the said hospital, without fee or reward, or any deduction whatsoever	38,000	0	0
	539,231	13	5

April 20.

To be employed in maintaining and supporting the British forts and settlements upon the coast of Africa, and putting the said forts into better repair	13,000	0	0
For building a block-house at or near Cape Appollonia, on the coast of Africa	7,000	0	0
For defraying the charge of three independent companies of foot, to be raised for his Majesty's service, on the coast of Africa; and for provisions for the same; from the 25th of December 1764, to the 24th of December 1765, both days inclusive; being 365 days	6,491	17	4½
Upon account, for defraying the charges of a civil establishment, upon that part of the coast of Africa, situate between the port of Sallee, in South Barbary, and Cape Rouge for 1765	5,500	0	0
	31,991	17	4½

May 7.

To make good to his Majesty the like sum which has been issued by his Majesty's orders in pursuance of the addresses of this House	2,400	0	0
To enable his Majesty to give a proper compensation to the government of the island of Barbadoes, for the assistance given by them to his Majesty's forces, under major general Monckton, in the expedition against Martinico	10,000	0	0
	12,400	0	0
Total of the Supplies granted this session	£.7,763,090	13	0

Ways and Means *for the Year* 1765.] The following are the Resolutions of the Committee of Ways and Means agreed to during this Session:

Jan. 24. 1765. That the annual malt duty be continued from the 23d of June, 1765, to the 24th of June, 1760. 750,000*l.*

Jan. 29. That the land tax of 4*s.* in the pound be continued for one year from the 25th of March, 1765. 2,037,854*l.* 19*s.* 11*d.*

Feb. 7. No less than 55 Resolutions of the Committee were agreed to by the House, for laying nearly the same stamp duties upon the British colonies in America, as are payable in England; but as they were afterwards formed into a Bill, and the Bill passed into a law, it is not necessary to insert them here; therefore we shall only observe, that by the last it was resolved, that all the said duties be paid into the receipt of his Majesty's exchequer; and there reserved, to be, from time to time, disposed of by parliament, towards further defraying the necessary expences of defending, protecting, and securing the said colonies and plantations.

Feb. 16. 1. That for the better supply of our export trade to Africa, with such coarse printed calicoes and other goods, being the product or manufacture of the East Indies, or of other places beyond the Cape of Good Hope, as are prohibited to be worn in Great Britain, the East India Company be permitted to import the same from any part of Europe not within his Majesty's dominions, under proper limitations and restrictions.

2. That upon failure of the said Company's keeping the said export trade supplied, with a sufficient quantity of such calicoes and other goods, other persons be permitted to import the same into this kingdom, from any such part of Europe, under proper limitations and restrictions.

3. That the said calicoes and other goods, which shall be so imported, be liable to pay the same duties as if the same were imported by the said Company from the East Indies, or any other place beyond the Cape of Good Hope, and no other.

4. That the bounty allowed by law, to be paid on the exportation of corn, grain,

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malt, meal, and flour, from Great Britain to the Isle of Man, be discontinued.

5. That a stamp duty of 10*s.* be charged upon every piece of vellum or parchment, or sheet or piece of paper, on which every licence for making and selling measures of capacity shall be engrossed, written, or printed.

6. That a stamp duty of 10*s.* be charged upon every piece of vellum or parchment, or sheet or piece of paper, on which every licence for making and selling of weights, shall be engrossed, written, or printed.

March 11. That the annuities granted by two acts of parliament, the one passed in the 33d year of the reign of his late majesty, and the other passed in the second year of the reign of his present Majesty, in respect of certain capital stocks thereby established, amounting together to the sum of 20,240,000*l.* at the rate of 4*l.* per cent., per ann., for certain terms of years, and then to be reduced to 3*l.* per cent. per ann., which annuities were by the said acts made payable half yearly on the 5th of July and on the 5th of January in every year, and were, by the last mentioned act, consolidated and made one joint stock, shall, from and after the 5th day of July next ensuing, with the consent of the proprietors thereof, be payable in the manner following, that is to say; that one quarterly payment of the said annuities shall be payable on the 10th of October next; and that the said annuities, from and after the said 10th of October, shall be payable half yearly, on the 5th of April and the 10th of October in every year; and that such of the proprietors of the said annuities who shall not signify their dissent on or before the 1st of June next, in books to be opened at the bank of England for that purpose, shall be deemed and taken to consent thereto.

March 14. 1. That all persons interested in, or entitled unto, any bills, or bill, payable in the course of the navy or victualling offices, or for transports, which were made out on or before the 30th of June 1764, who shall, on or before the 26th of this instant March, carry the same (after having the interest computed thereupon to the 6th of April next, and marked upon the said bills at the navy or victualling office respectively) to the office of the treasurer of his Majesty's navy, shall have in exchange for the same, from such treasurer or his pay-master or cashier, a certificate, to the governor and company of the bank of England, for every entire sum of one or more hundred pounds, of which such bill or bills, together with the interest so marked, shall consist, until the several entire sums of one or more hundred pounds, for which such certificates are to be made forth, shall amount together to 1,500,000*l.*, and also one other certificate for the fractional part of 100*l.*, being the remainder of such bill or bills: and the persons who shall be possessed of such first-mentioned certificates, of the intire sum of one or more hundred pounds, shall, upon delivery thereof to the said governor and company, be entitled with respect of the same, to the annuities hereafter mentioned: that is to say; for two fifth parts of the sums therein mentioned, to an annuity, after the rate of 3*l.* per cent. redeemable by parliament, and transferrable and paid at the bank of England: for two other fifth parts thereof, to a proportional number of tickets of the value of 10*l.*, in a lottery, to consist of 60,000 tickets, every blank to be of the value of 6*l.*, the blanks and prizes to be attended with the like three per cent. annuities; and, for the remaining one fifth part, to a like annuity, after the rate of 3*l.* per cent. with liberty to convert the same into an annuity for life, after the same rate, with benefit of survivorship, in manner following: that is to say; that every person who shall become possessed, in right of 100*l.* capital stock, of an annuity of 3*l.* in such last mentioned annuities, and shall produce, on or before the 5th of April 1766, a certificate thereof, attested by the cashier of the bank of England, to the auditor of the receipt of his Majesty's exchequer, shall, in lieu thereof, be intitled, from the said 5th of April, 1766, during the life of the nominee whom he shall appoint, to a life annuity of three pounds payable at the Exchequer, out of the sinking fund; and the several nominees, to be appointed in respect to such life annuities, to be divided into classes, the whole annuity belonging to each class not to be less than 1,500*l.* if life annuities to that amount shall be so subscribed; and, upon the death of every nominee, the annuity, so fallen in, to be distributed among the survivors of the same class: and the annuities, in respect of the said first two fifth parts, shall be immediately added to, and made a part of, the joint stock of annuities reduced from 4 to 3 per cent. and consolidated, pursuant to certain acts of parliament, made in the 25th and 26th

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years of his late majesty; and the annuities attending the said lottery, together with such of the annuities in respect of the said one fifth part as shall not be exchanged for annuities on lives, with the benefit of survivorship, in manner above mentioned, shall also be added to, and made a part of such joint stock, from the 5th of April 1766; and all the said annuities, transferable and paid at the bank, shall commence, from the said 5th of April 1765, and be payable half yearly, on the 10th of October, and the 5th of April in every year, out of the sinking fund: but, in case the several intire sums of one or more hundred pounds, for which certificates are to be granted by the treasurer of his Majesty's navy, or his paymaster, or cashier, in respect of such bills so to be delivered in, on or before the 26th of this instant March, and of the interest marked thereon, shall not then amount in the whole to the sum of 1,500,000*l.* all persons possessed of the above-mentioned certificates for the fractional parts of 100*l.* or of navy, victualling, or transport bills, which were made out on or before the 30th of June, 1764, and do not amount, together with the interest thereupon computed to the 6th of April next, to 100*l.* may, on or before the 5th of April next, after having had the interest upon such bills marked in such manner as is before mentioned, bring the same to the office of the treasurer of his Majesty's navy, and shall have, in exchange for the same, from such treasurer, or his paymaster or cashier, a certificate to the said governor and company of the bank of England, for the sums contained in such certificates, and for the amount of the principal and interest of which such bills shall consist; and, upon delivery thereof, and payment of so much money to the said governor and company as shall, with the sum so certified, amount to 100*l.* shall be entitled to the annuities and advantages before mentioned: and if any such certificates for fractional parts shall not be delivered in, and subscribed as aforesaid, on or before the said 5th of April next, they shall be paid according to the course of the navy, in such order as the bills in part of which they were granted were payable; and such of them, as were granted in part of bills bearing interest, shall, from the said 5th of April next, carry the like interest to which such bills were intitled.

2. That there be granted to his Majesty, an additional duty of four shillings, for every chaldron of coals, Newcastle measure, which shall be shipped for exportation to any part beyond the seas, except to Ireland, the Isle of Man, or the British dominions in America; and at the same rate for any greater or lesser quantity.

3. That there be granted to his Majesty, upon all wrought silk, Bengals, and stuffs, mixed with silk or herba, of the manufacture of Persia, China, or East India, and upon all callicoes, printed, dyed, painted or stained there, which shall be exported from this kingdom, except to Africa or the British dominions in America, a subsidy of poundage, after the rate of 12 pence for every 20 shillings of the value of such goods, according to the gross price at which they were sold at the public sales thereof.

4. That upon the exportation from this kingdom of any sort of white callicoes or muslins, except to Africa or the British dominions in America, there be retained, besides the one half of the rate or duty commonly called the old subsidy, which now remains, and is not drawn back for the same, the further sum of two pounds for every hundred pounds of the true and real value of such goods, according to the gross price at which they were sold at the sale of the united company of merchants trading to the East Indies; but that such callicoes, which shall first have been printed, stained, painted, or dyed, in Great Britain, shall not be subject to the said duty of two pounds, to be retained as aforesaid.

5. That there be granted to his Majesty, a stamp duty of two pence, for every skin or piece of vellum or parchment, or sheet or piece of paper, on which shall be ingrossed, written, or printed, any policy of assurance, which shall be made or entered into, within the cities of London or Westminster, or elsewhere within the limits of the weekly bills of mortality, over and above all other duties.

6. That there be granted to his Majesty, a stamp duty of 2*s.* 6*d.* for every skin, or piece of vellum or parchment, or sheet or piece of paper, on which shall be ingrossed, written, or printed, any policy of assurance, which shall be made or entered into Great Britain, over and above all other duties.

7. That the said duties be carried to, and made part of, the sinking fund, towards making good the payment of the said annuities.

8. That a stamp duty of 6*d.* imposed

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by an act made in the 12th year of the reign of queen Anne, and the additional stamp duty of 1*s.* imposed by an act made in the 30th year of the reign of his late majesty king George the 2d, upon vellum, parchment, and paper, containing any indenture, lease, bond, or other deed, be declared to extend to every skin or piece of vellum or parchment, or sheet or piece of paper, on which shall be ingrossed, written, or printed, in Great Britain, any policy of assurance or charter-party.

March 25. That authority be given to permit the importation into this kingdom from the Isle of Man, under proper limitations and restrictions, of any coarse printed callicoes and other goods of the product or manufacture of the East Indies, or other places beyond the Cape of Good Hope, which are prohibited to be worn and used in this kingdom, and which were brought into the said isle before the 1st of March, 1765, upon payment of one half of the old subsidy only for such goods.

March 28. 1. That the monies remaining in the Exchequer on the 10th of October, 1764, for the disposition of parliament, which had then arisen of surplusses, excesses or overplus monies, and other revenues of the fund, commonly called the sinking fund, be issued and applied, amounting to the sum of 135,213*l.* 5*s.* 0*d.* ½.

2. That out of such monies as shall or may arise of the surplusses, excesses, or overplus monies and other revenues composing the said fund, there be issued and applied the sum of 2,100,000*l.*

April 4. 1. That, in case the monies, for which certificates have been or shall be granted, in pursuance of a resolution of this House, of the 14th day of March last, by the treasurer of his Majesty's navy, or his pay-master or cashier, to the governor and company of the bank of England, for and in respect of navy victualling, and transport bills, made out on or before the 30th day of June 1764, and for and in respect of such fractional parts of the said bills, as remained above the entire sums of one or more hundred pounds, together with the sums paid and payable at the bank of England, with the certificates for such fractional parts, and for such of the said bills, as, together with the interest computed thereupon, do not amount to 100*l.* shall not, on the 5th day of this instant April, make up the full sum of 1,500,000*l.* the monies which shall be so wanting to complete the said sum of 1,500,000*l.* to be raised by contributions, to be received at the bank of England, in entire sums of one or more hundred pounds, to be paid to the cashier or cashiers of the said governor and company, on or before the 28th day of this instant April, and that the contributors be intitled for the monies so by them respectively advanced, to such annuities, benefits, and advantages, as are mentioned in the said resolution, to be allowed to the proprietors of certificates, granted in exchange for such navy, victualling, and transport bills, as shall have been delivered on or before the respective days therein limited.

2. That the money remaining in the exchequer, which was granted in the last session, upon account, for defraying the charge of the pay and cloathing of the militia for one year, beginning the 25th of March, 1764, be issued and applied towards raising the supplies granted this session, amounting to the sum of 80,000*l.*

April 20. 1. That there be raised by loans or exchequer bills, to be charged upon the first aids to be granted in the next session: and such exchequer bills, if not discharged with interest thereupon, on or before the 5th day of April, 1766, to be exchanged and received in payment, in such manner as exchequer bills have usually been exchanged and received in payment, 800,000*l.*

2. That, of the monies arisen or to arise, out of such of the duties granted or continued, by an act of last sessions as were thereby reserved to be disposed of by parliament, towards defraying the necessary expence of defending, protecting, and securing the British colonies and plantations in America, there be applied towards making good the supply granted for maintaining his Majesty's forces and garrisons in the plantations; and for provisions for the forces in North America, Nova Scotia, Newfoundland, and the ceded islands for 1765, 60,000*l.*

3. That a duty of 6*d.* be laid upon every hundred weight of gum senega, or gum arabic, imported into this kingdom, over and above all duties now payable thereupon.

4. That a duty of 30*s.* be laid upon every hundred weight of gum senega, or gum arabic, exported out of this kingdom, over and above all duties now payable thereupon.

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April 25. That the monies which have been, or shall be paid at the Bank, in pursuance of the resolutions of this House, of the 14th of March last and 4th instant, be applied towards discharging bills payable in the course of the navy or victualling offices, or for transports, which were made out, on or before the 30th of June, 1764.

April 30. 1. That the bounties and drawbacks now paid upon the exportation from this kingdom, of refined sugars, and ground sugar, be discontinued.

2. That, upon the exportation from this kingdom, of refined sugar in the loaf, complete and whole, being nett, that is to say, of one uniform whiteness throughout, and which has gone through the operation of three clays at the least, and been properly and thoroughly dried in the stove, according to the present practice of refining, a bounty be allowed after the rate of 14*s.* 6*d.* for every hundred weight thereof.

3. That upon the exportation from this kingdom of refined sugar called bastard, and of ground and powdered refined sugar, and of refined loaf sugar broke in pieces (the said sugar having been twice clayed, and properly dried in the stove) a bounty or drawback be allowed, after the rate of 6*s.* 4*d.* for every hundred weight thereof.

4. That liberty be granted for a limited time, to carry rice from the province of North Carolina, directly to any other part of America, southward of South Carolina and Georgia, subject to such duty as is now payable upon rice, carried from South Carolina and Georgia, to any part of America, to the southward thereof.

5. That the duties, which shall arise in respect of rice, so carried from North Carolina, and the duties which shall arise in pursuance of an act made in the last session of parliament, intituled, 'An Act for granting, for a limited time, a liberty to carry rice from,' &c. be paid into the receipt of his Majesty's exchequer, and there reserved to be from time to time, disposed of by parliament, towards further defraying the necessary expences of defending, protecting, and securing the British dominions in America.

6. That bounties be granted upon the importation of deals, planks, boards, and timber, into this kingdom, from the British dominions in North America, for the term of nine years, in manner following; that is to say, during the first three years, for every hundred, containing six score of sound merchantable deals, planks, and boards, not less than ten feet long, ten inches broad, and one inch and one quarter of an inch thick, 20*s.*; and so in proportion for any greater length, and for any greater thickness, not exceeding four inches, and for every load containing forty cubic feet, of sound merchantable squared timber of all kinds (the timber not to be less than ten inches square) 12*s.*; and during the next three years, for every hundred of such deals, planks, and boards, 15*s.*; and for every load of such timber, 8*s.*; and during the last three years, for every hundred of such deals, planks, and boards, 10*s.*, and for every load of such timber, 5*s.*

7. That the additional inland duty of 1*s.* granted by an act made in the 32nd of his late majesty, upon every pound weight avoirdupois of coffee, sold in Great Britain, do cease and determine.

8. That there be granted to his Majesty, an additional inland duty of 6*d.* upon every pound weight avoirdupois of coffee, not being of the growth and product of the British plantations in America, which shall be sold in Great Britain.

9. That the said additional inland duty be appropriated to the uses, to which the said duty of 1*s.* per pound weight was made applicable.

10. That the allowances directed by law to be made in respect of hard soap, which shall be refreshed or made new, be discontinued.

11. That in lieu thereof, the duties upon one pound, in every ten pounds weight of such soap, be allowed to the makers thereof.

12. That all linen cloth and diaper of Russia, which are not at present particularly rated in any act of parliament, or book of rates, be, upon the importation thereof into this kingdom, rated in manner following; that is to say, all such cloth and diaper, being in breadth more than 22½ and not exceeding 31½ inches at 4*l.* and being in breadth more than 31½ inches, and not exceeding 45 inches, at 6*l.*; and exceeding 45 inches in breadth, at 10*l.*, for every 120 English ells thereof respectively, and so in proportion for any greater or lesser quantity; and that the full amount of the several duties now required by law to be paid, for every 20*s.* of the value of the said goods, be raised and collected according to the said respective rates.

13. That no drawback or bounty be allowed upon the exportation of any goods, from this kingdom, to any of the islands of Faro.

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May 6. 1. That every instrument, letter, entry, minutes, memorandum, or other writing whereby any officer is admitted, in any court whatsoever, to serve or to hold such office, as is charged with any stamp duty within the meaning of the acts 5 William and Mary, 9 William 3, and 12 Anne, whereby the several duties of 40*s.* are imposed upon every piece of vellum, parchment, or paper, on which any admittance of such officer is ingrossed or written, shall be deemed and taken to be an admittance of such officer.

2. That the present stamp duty upon the admission into any corporation or company be repealed.

3. That instead thereof, a stamp duty of 2*s.* be charged upon the entry, minute, or memorandum, made of such admittance, in their court book, roll, or record.

4. That the present allowance for prompt payment at the stamp office be repealed.

5. That instead thereof an allowance at the rate of 4*l.* per cent. per ann. be for the future made.

6. That an additional stamp duty of 20*s.* be charged upon every policy of assurance, in which the properties of more than one person, in any ship, cargo, or both, or more than a particular number of persons in partnership, or more than one body politic, to a greater amount in the whole than 100*l.* shall be assured.

7. That of the monies agreed to be paid by a convention, between his Majesty and the French king, concluded and signed at London, the 27th of February last, for the maintenance of the late French prisoners of war, there be applied a sum not exceeding 308,000*l.*

May 7. 1. That out of the monies which shall arise from the produce of the duties laid in this session, upon the importation and exportation of senega and gum arabic, there be issued and applied a sum not exceeding 12,000*l.*

2. That the 2*s.* stamp duty to be imposed by the third resolution of yesterday, be applied to the uses, to which the stamp duty repealed by the second resolution of yesterday was applicable.

3. That the additional stamp duty of 20*s.* imposed by the sixth resolution of yesterday, be applied to the like uses to which the duties upon policies of assurance are at present applicable.

4. That the same bounties be allowed upon all linens to be made in the Isle of Man, and imported into Great Britain, which shall be exported from thence, as are now allowed on the exportation of British or Irish linens, and under the same restrictions and limitations.

5. That the inhabitants of the Isle of Man may import into any lawful port of Great Britain or Ireland, the bestials, or any other goods, wares, and merchandizes, of the growth, produce, and manufacture, of the said isle, except woollen manufacture, beer, and ale, without paying any custom, subsidies, or duties, for and in respect thereof, (except such excise or other duty, as is now, or shall hereafter for the time being, be due and payable for the like goods, wares, or merchandize, of the growth, produce, and manufacture of Great Britain) liable to certain limitations and restrictions.

May 9. 1. That towards making good and securing the payment of the sums of money directed by an act of 32 Geo. 2, to be applied in augmentation of the salaries of the judges and justices therein mentioned, in England and Wales, there be granted an additional stamp duty of 4*l.* upon every piece of vellum or parchment, or sheet or piece of paper, upon which any admission into any of the four inns of court shall be ingrossed or written; and an additional stamp duty of 6*l.* upon every such piece, on which shall be ingrossed or written, any register, entry, testimonial, or certificate, of the degree of utter barrister, taken in any of the four inns of court.

2. That out of any of the surplusses which shall arise upon the funds established for payment of the said augmentation, and upon the said additional stamp duty, after the payments charged thereupon, are, from time to time, satisfied, a sum not exceeding 3,625*l.* be applied in augmentation of the salaries of the said judges and justices, from the 5th of January to the 5th of July, 1759, according to the proportions appointed by the said act, with respect to the augmentation therein mentioned.

3. That out of any of the duties and revenues in Scotland, which by an act of 10 Anne, were charged, or made chargeable, with payment of the fees, salaries, and other charges allowed, or to be allowed by her majesty, her heirs, or successors, for keeping up the courts of session and justiciary, and exchequer court in Scotland, a sum not exceeding 2,100*l.* be applied in augmentation of the salaries of the judges in the courts of session and exchequer there, from the 5th of January to

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the 5th of July, 1759, according te the proportions appointed by the said act of 32 Geo. 2, with respect to the augmentation thereby granted of the salaries of the said judges.

Total of the liquidated sums provided for by the committee of ways and means	£.7,783,068	4	11
Excess provided by the said committee more than granted by the committee of supply, omitting the fractions as they are very near equal. - - - -	19,977	11	11
To this ought to be added the sum provided as well as granted by the second resolution of April 2, of the committee of supply, being - - - -	251,740	2	7¾
Total excess -	271,717	14	6¾

*Proceedings in the Commons on a Supersedeas to a Writ for a Member.**] April 29. Ordered, That Mr. Speaker do issue his warrant to the clerk of the crown, to make out a new writ for the borough of Devizes, in the room of William Willy, esq. deceased.

April 30. The House being informed, that, by accounts received since the order made yesterday for Mr. Speaker to issue his warrant to the clerk of the crown, to make out the said writ, it was uncertain whether the said Mr. Willy was dead at the time of making the said order; and Mr. Speaker having acquainted the House, that he had, in pursuance of the said order, issued his warrant to the clerk of the crown; and that the said writ had been made out accordingly; and was now in the hands of the messenger of the great seal; and a motion being made, that the clerk of the crown do make out a Supersedeas of the said writ:

The House was moved, that the entry in the Journal of the House, of the 19th of December 1702, relating to the proceeding of the House, upon the issuing of a new writ for the city of Gloucester, might be read:

And the same being read accordingly; the said motion was, by leave of the House, withdrawn.

Ordered, That the messenger of the great seal do forbear the delivery of the said writ, for the electing of a burgess to serve in this present parliament for the borough of Devizes, until the further order of this House.

May 6. The House being informed, that William Willy, esq. was alive at the time the order was made, for Mr. Speaker to issue his warrant to the clerk of the crown to make out a new writ for the borough of Devizes, in the room of the said Mr. Willy; the House was moved, that the order, made upon Tuesday last, that the messenger of the great seal do forbear the delivery of the said writ until the further order of this House, might be read.

And the said order being read accordingly; was ordered to be discharged.

Ordered, That Mr. Speaker do issue his warrant to the clerk of the crown, to make out a Supersedeas to the said writ for the electing of a burgess to serve in this present parliament for the borough of Devizes, in the county of Wilts.

* "In the debate upon this proceeding, *the lawyers*, amongst which were Mr. Fazakerley and Mr. Wilbraham, doubted the authority of the House to order a Supersedeas; and rather recommended an application to be made to the Lord Chancellor for this purpose. But the House rejected this proposition, well knowing that every proceeding which regards the direction for issuing, suspending, or superseding writs for the electing members to serve in the House of Commons, is solely and exclusively within their own jurisdiction. This opinion from two very considerable lawyers (at that time the most eminent in their profession) upon a subject of Parliamentary Law, only serves to illustrate and confirm the truth of an observation, which Mr. Onslow used frequently to make, 'That Common Lawyers, accustomed to the forms and practice of the courts of Westminster-hall, know little of Parliamentary law, or of the forms of proceeding in parliament. Remember, young man,' (speaking to new members) 'I foretell, if ever you live to see a *Common Lawyer* elected into this Chair, the authority and dignity of the House of Commons will from that time be absolutely destroyed.' Mr. Onslow was himself of the profession; had a proper sense of its its importance, and a regard for the professors of it; and for their opinion upon subjects, on which the course of their studies had rendered them competent to give one." Hatsell's Precedents, vol. 2, p. 75.

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*The King's Speech at the Close of the Session.**] May 25. The King came to the House of Lords, and put an end to the Session with the following Speech to both Houses:

"My Lords, and Gentlemen,

"The dispatch which you have given with so much zeal and wisdom to the public business, enables me now to put a period to this session of parliament.

* "The ministry had never been popular; and they had now perceptibly lost the King's confidence; their conduct on the Regency Act betrayed an inclination, if not to oppose, at least not to favour the inclinations of the sovereign. It is even averred, that several posts of honour and emolument were bestowed in opposition to their advice, and without their knowledge, which produced offensive remonstrances, in consequence of which the King, by the recommendation of lord Bute, determined to dismiss them. This account forms part of the fable of lord Bute's secret influence, which was so long implicitly believed, and which still affords an easy solution of every political problem, for which no satisfactory explanation can be found in the ordinary details of diurnal occurrences.

"Although it may not be true that lord Bute interfered in the transactions of the cabinet, yet the jealous apprehension on that subject probably occasioned the ministry to do many things offensive to the King. Lord Temple both in the House of Lords and in private, had repeatedly condemned lord Bute's secret influence; he was about this time reconciled to his brother Mr. Grenville, and although they professed the reconciliation to be merely a family transaction, it could not fail of producing a considerable effect on the political conduct of Mr. Grenville.

"Such was the state of the ministry and their adherents when the duke of Cumberland entered into a negociation with lord Temple and Mr. Pitt, respecting a change, and first applied to lord Temple for his conditions. The duke did not object to them; but required that the earl of Northumberland should be at the head of the treasury: this proposal was not agreeable to lord Temple, and the conference broke off. The duke, however, did not yet relinquish the hopes of success: he waited on Mr. Pitt at Hayes, where he was met by lord Temple, and the subject renewed. Mr. Pitt declared he had no objection to go to St. James's, 'if he could carry the constitution with him,' but declined all connection with the earl of Northumberland. The next day, lord Frederick Cavendish was sent from the Duke to Mr. Pitt, with a modification of the proposal respecting the earl of Northumberland, and Mr. Pitt returned the same answer which he had given to the duke of Cumberland. The situation of first lord of the treasury was then offered to lord Lyttelton, who desired to consult lord Temple and Mr. Pitt; and the Duke, convinced that no advantage could be derived from a new negociation, reported these transactions to the King, advising him to continue his present servants.

"In consequence of this counsel, the King required the ministry to state the conditions on which they would remain in office. A meeting was held in Downing-street, at which the first lord of the treasury, the lord chancellor, the duke of Bedford, and the earls of Halifax and Sandwich, were present. At the conclusion of this conference Mr. Grenville was directed to wait on the King, and state five propositions as the terms of retaining their situations; 1. that lord Bute should not interfere directly or indirectly in the affairs of government; 2. Mr. Stuart M'Kenzie, lord Bute's brother, to be dismissed from the office of keeper of the privy seal for Scotland; 3. lord Holland to be deprived of the paymastership of the forces, which should be bestowed on a member of the House of Commons; 4. The marquis of Granby to be at the head of the army; and 5. The government of Ireland to be left to the discretionary arrangement of the ministry.

"The difficulty already experienced in forming a new administration, rendered it necessary to comply in part with these propositions. Stuart M'Kenzie was dismissed from the privy seal of Scotland, which was given to lord Frederick Campbell; Charles Townshend was appointed pay-master of the forces; and lord Weymouth lord lieutenant of Ireland. Still the disunion between the King and the ministry existed in all its extent: a spirit of violence seems to have possessed some members of the cabinet, and urged them personally to insult their sovereign, in a manner which rendered their longer continuance in office impossible. All previous attempts to form a new administration failing of success, the King himself sent for Mr. Pitt, and held a conference with him at Buckingham-house. In consequence of this interview, Mr. Pitt, and lord Temple had a joint audience, and the King condescended to lay before the two brothers certain propositions for their acceptance. Mr. Pitt seemed disposed to comply with the most important, but required time to deliberate. Lord Temple declared his repugnance to all the conditions, and Mr. Pitt afterwards adopted the same sentiments.

"The duke of Cumberland being again applied to, negociated with the duke of Newcastle for the formation of a new ministry, which was speedily adjusted. The marquis of Rockingham was placed at the head of the treasury; general Conway was appointed secretary of state, with the management of the House of Commons, the other secretary was the duke of Grafton; the duke of Newcastle was lord privy seal; Mr. Dowdeswell chancellor of the exchequer; and the earl of Hertford lord lieute-

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" No alteration in the state of foreign affairs has happened since your meeting, to disturb the general peace: and it is with pleasure that I inform you, that the present dispositions of the several powers of Europe promise the continuance of this blessing.

" I have seen, with the most perfect approbation, that you have employed this season of tranquillity in promoting those objects which I have recommended to your attention; and in framing such regulations as may best enforce the just authority of the legislature, and at the same

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nant of Ireland. These were the leading men in the new administration, though changes took place in every department. The high popularity of the duke of Cumberland, who formed this ministry, and the characters of the principal members, promised a great degree of public favour, and one of their first acts, that of making Mr. Pratt, the chief justice of the Common Pleas, a peer, by title of earl Camden, was highly gratifying to the people.

" The duke of Cumberland, perfectly satisfied with this administration, contributed to their permanency by constantly attending the council, thus assisting them with his advice, and sanctioning their measures by his splendid reputation; but of this inestimable co-adjutor they were soon deprived, by his sudden death. His great popularity, the deserved meed of tried valour and undoubted patriotism, rendered his loss extremely afflicting at this period, when a new ministry was preparing to try the effect of new measures. As their operations were intended to contravene the prejudices and opinions of all other parties, they required, in a peculiar manner, all the support which could be derived from personal estimation. The decease of the Duke was generally deplored as well by the nation as the royal family; and the King sustained an additional loss by the death of his brother, prince Frederick, who expired in the 16th year of his age." Adolphus.

" Whether during the King's late illness, or at whatever moment earlier, or for whatever cause, the earl of Bute took a resolution of removing the ministers, are points, which can be explained by only those persons who were at that time in his confidence. The sincere opinion of other persons was, that some representations having been made by the subsisting ministers, upon the appointment of sir H. Erskine; upon filling the see of Armagh, and upon other promotions, some of which had taken place contrary to their advice, and others without their knowledge, the King was offended, and applied to his favourite to emancipate him from these importunities. Whether this opinion was well founded, or not, it is certain that, ten days at least before any intimation was given to the ministers of the Regency Bill, the earl of Bute obtained, through the interest of the earl of Albemarle, a private audience of the duke of Cumberland. His wish was to bring Mr. Pitt into office. His project had failed in the year 1763, through his own cowardice. This year he resolved not to appear in the measure; perhaps he was still influenced by his fears, and therefore, the better to conceal himself, and to give greater weight to his design, his first care was to put the negociation into the hands of the duke of Cumberland, with some limitations. After his audience with the Duke, he and his brother appeared publicly at his Royal Highness's levee, more than once during the time the Regency Bill was in parliament. These circumstances were not unknown to the ministers, nor did they scruple to declare to their friends, That the King's confidence was not placed where it ought to be. Yet they did not refuse a necessary measure. But they were particularly blameable for admitting one part of it, which whoever advised gave bad advice: it was a proposition, for an unexampled encroachment on the inherent fundamental and essential rights of parliament, and a dangerous precedent for an addition to the pretensions of the crown, by entrusting to the sole and secret nomination of the prince upon the throne, the appointment of the person to exercise the regal authority during a minority.

" Mr. Pitt having declared in parliament, that he would live and die with his brother (lord Temple) the confidential contrivers of this second project to bring in Mr. Pitt, resolved to make the application to lord Temple, with the hope of obtaining his favourable opinion, which was considered the most essential step towards gaining Mr. Pitt. Accordingly on the 15th of May, the duke of Cumberland sent for lord Temple from Stowe. As soon as possible his lordship waited on the Duke, who began by informing him, that the King had resolved to change his servants, and to engage his lordship, Mr. Pitt, and their friends, in his service; but first he (the Duke) wished to know their conditions. Lord Temple most respectfully assured his Royal Highness that their conditions were not many. The making certain foreign alliances, the restoration of officers (civil and military) cruelly and unjustly dismissed, a repeal of the excise on cyder, a total and full condemnation of general warrants, and the seizure of papers. His Royal Highness perfectly approved of these conditions, and said they must be agreed to: and then added, that he had a proposition to make,—this was, That it was the King's desire that lord Northumberland should be placed at the head of the treasury. Lord Temple replied, 'He would never come into office under lord Bute's lieutenant.' [Lord Northumberland was at this time lord lieutenant of Ireland.] Here the conference broke off. This proposition having been made in the negociation in the year 1763, when lord Bute appeared openly in the measure, left no room to doubt of his lordship being still the secret ad-

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time, secure and extend the commerce, and unite the interests, of every part of my dominions.

"Gentlemen of the House of Commons:

"The cheerfulness and prudence which you have shewn, in providing for the necessary expences of the present year, deserve my particular acknowledgments.

"The many Bills which you have formed for the improvement and augmentation of the revenue in its several branches, and the early care which you have taken to discharge a part of the national debt, are

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viser of the King, and the secret mover of the present negociation.

"On the 19th of the same month, which was Sunday, the Duke sent a message to lord Temple, requesting his lordship to meet him at Mr. Pitt's house, at Hayes, in Kent. The Duke was with Mr. Pitt, when his lordship came in, and had made the same proposition respecting lord Northumberland, which Mr. Pitt had refused, as totally inadmissible; upon the same principle, that the refusal had been made by lord Temple; of which Mr. Pitt had not, until that moment, received the smallest intimation. He assured his Royal Highness, that he was ready to go to St. James's, 'if he could carry the constitution along with him;' —that was his expression.

"Next day the Duke sent lord Frederick Cavendish to Mr. Pitt, with an assurance that the proposition respecting lord Northumberland being at the head of the treasury, was relinquished, provided his lordship was considered in some other way. Mr. Pitt returned the same answer he had given to his Royal Highness. Upon the return of lord Frederick, the Duke offered the treasury to lord Lyttelton, who desired to consult lord Temple and Mr. Pitt. The Duke was displeased with this answer, and immediately went to the King; and having informed his Majesty of the several answers he had received, concluded with advising the King to continue his present servants.

"At the same time, lord Temple, and his brother Mr. Grenville, became reconciled through the mediation of the friends of both parties; who declared that this reconciliation was no more than a family friendship as brothers; and on public principles, only as to measures in future.

"It is in their influence on measures in future, that such circumstances become interesting to the nation. The reconciliation being made, Mr. Grenville, unbosoming himself to his brother, related all the arts and clandestine steps of the favourite; which, if possible, increased his brother's ardour on every subsequent occasion he had to oppose lord Bute. Both the brothers now entertaining the same opinion, there could be little probability of another separation between them; consequently, in future, it must be supposed they engaged to act, and to concert their measures together.

"During the negociation with the Duke, parliament had been kept sitting under an expectation of issuing writs for new elections; but that negociation having failed, the subsisting ministers resolved to vindicate the independence of their situations, by asserting the due influence, which of right belonged to the re-

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sponsibility of their offices, and to create a necessity of issuing writs very different from those which had been in expectation.

"The decisive stroke of this contest, was the turning out Mr. Mackenzie, lord Bute's brother; which, they declared, they offered to the public as a mark, that the councils and employments of the state were not separated, notwithstanding the late negociation. And this circumstance gave them a merit in their death, that most of them would never have acquired any other way.

"There was no step they could have taken more personally offensive than this. And to it they added, the dismission of lord Northumberland, and Mr. Fox who had been created lord Holland. As soon as these changes were made, parliament was prorogued.

"The King considered these three dismissions, but most particularly the first, as insults upon himself. Whether the opinion was spontaneously his own, or whether it was suggested to him, is not material. The language of the Favourite upon this occasion was—'What! do you mean to destroy the monarchy?—to annihilate the first of the three estates?'

"In consequence of these open and avowed acts of hostility to the Favourite, a resolution was taken to open another negociation with Mr. Pitt. Lord Bute and the Duke having both failed, the King himself undertook this negociation. His Majesty sent for Mr. Pitt. He waited upon the King at the Queen's house, on the 20th of June 1765. The consequence of this audience was, the sending for lord Temple. And on the 25th, they waited on his Majesty together at the Queen's house; when the following conditions were proposed to them. 1. Mr. Stuart Mackenzie to be restored. 2. Lord Northumberland to be lord chamberlain. 3. The King's friends to continue in their present situations.

"To the two first conditions Mr. Pitt was not very averse. Respecting the last, he wished for some explanation. But lord Temple declared against the whole. Upon which the conference ended. The King's negociation having failed, the duke of Cumberland was again applied to. His Majesty having resolved to part with his present servants at any rate, his royal highness had full power to form an administration. The duke of Newcastle, the marquis of Rockingham, and their friends, thought it their duty to accept of his royal highness's invitation. General Conway was made secretary of state, and to him was committed the management of the House of Commons." Life of Lord Chatham.

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the most effectual methods to establish the public credit upon the surest foundations, and to alleviate by degrees the burdens of my people.

"My Lords, and Gentlemen:

"The provisions which have been made for the administration of the government, in case the crown should descend to any of my children under the age of eighteen years, whilst they add strength and security to our present establishment, give me the kindest and most convincing proof of your confidence. The sense which I have of the important trust reposed in me, and my desire to repay this mark of your affection, by discharging my part agreeably to your intentions, in the manner most beneficial to my people, have concurred to make me execute without delay the powers with which you have entrusted me: this is already done; and you may be assured that, as far as it depends upon me, those salutary provisions shall never be ineffectual. It is my ardent wish, and shall be my constant endeavour, on this and every other occasion, to perpetuate the happiness of my subjects, and to transmit to posterity the blessings of our invaluable constitution."

The Parliament was then prorogued to the 11th of July; and was afterwards further prorogued to the 17th of December.

FIFTH SESSION OF THE TWELFTH PARLIAMENT OF GREAT BRITAIN.

The King's Speech on Opening the Session.] December 17, 1765. His Majesty opened the Session with the following Speech to both Houses:

"My Lords, and Gentlemen:

"The present general state of tranquillity in Europe gave me hopes that it would not have been necessary to assemble my parliament sooner than is usual in times of peace.

"But, as matters of importance have lately occurred in some of my colonies in America, which will demand the most serious attention of parliament; and as further informations are daily expected from different parts of that country, of which I shall order the fullest accounts to be prepared for your consideration; I have thought fit to call you now together in order that opportunity may thereby be given to issue the necessary writs on the many vacancies that have happened in the House of Commons since the last session; so that the parliament may be full to proceed immediately, after the usual recess, on the consideration of such weighty matters as will then come before you."

The Lords' Address of Thanks.] His Majesty having retired,

The Earl of *Hardwicke* * rose and said:

My lords; our duty to the King, when speaking to his parliament from that royal seat, and the ancient usage of this House, have introduced the form of an immediate return of thanks to the throne, with general assurances of support on such weighty matters as the crown is advised to lay before us.

I should be justly diffident of my own abilities and experience in the proceedings of this House, to be the first to submit an opinion to your lordships as to the proper form of an address, if the speech had opened to us the entire plan of business for the session. But, as in the present conjuncture, his Majesty has only acquainted us, that he shall, (after the usual recess), have matters of the greatest importance, relative to our colonies in America, to lay before us, the trouble I shall give your lordships on this occasion will and ought to be short.

The state of affairs in America, which is the subject pointed out to us in the Speech, is indeed of the highest magnitude; if I had not heard that term so often misapplied, I should say the greatest in its extent and consequences, that ever came before parliament; it is of the utmost importance to the royal and legislative authority; to the good order of government; and to the commerce and navigation of these kingdoms. When we enter into this arduous matter, my lords, it should be discussed deliberately, wisely, *(sine ullis animorum incendiis)* and thoroughly with all the materials necessary to inform and direct our judgments; with joint deliberation and concurrence of both Houses of parliament, and with the fullest attendance of ther members.

These circumstances (all of them es-

* Philip Yorke, second earl of Hardwicke. The above Speech is from the original in the noble lord's hand-writing.

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sential in my poor opinion) cannot take place till after the holidays, and therefore I shall propose nothing further in the motion I shall take the liberty to make, than to assure his Majesty, that when the accounts of these late transactions in America have been received, and are laid before us, we will weigh them with an attention equal to their importance, and do every thing which the exigence of affairs shall require.

Two events have occurred since our last meeting very proper subjects for your lordships to express your dutiful sentiments upon at this time; the one a very agreeable subject of congratulation to the throne; the increase of the royal family by the birth of a prince. Every event of this kind must give your lordships not only that satisfaction which arises from having before your eyes the most complete examples of domestic felicity in the most exalted situation, but from the sure prospect of the continuance of those invaluable blessings, which we have enjoyed for more than half a century under the Protestant succession in the House of Brunswick.

The other event (of a very different cast) which your lordships will certainly make part of your address, is a condolence on the irreparable loss which his Majesty and the kingdom have sustained in the death of the duke of Cumberland.

The motion I shall offer, endeavours to express that just tribute of respect and gratitude which is due to the character of that illustrious prince. I shall not pretend to add much to it, because the national sense of his royal highness's merit and services stands already recorded in our statute book, and will for ever live in our memories.

One thing, however, your lordships will permit me to recall to your minds, before I sit down, rather to indulge my own feelings, than to reanimate, (which would be quite needless) the fervent and loyal zeal of your lordships, that the conduct, activity and valor, of the duke of Cumberland preserved this country, when a rebellion, impiously and wantonly set on foot, had shaken the throne, and distempered the state. This pleasing and interesting retrospect is alone sufficient to convey the highest idea of his capacity and services, and to transmit his respectable name amongst the other heroes of our own growth, with lustre to the latest posterity.

The noble lord concluded with moving, "That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House, for his most gracious Speech from the throne.

"To assure his Majesty, that, when he shall be pleased to communicate to his parliament the informations and advices which have been, or shall be, received from America, this House will proceed to the consideration of those weighty affairs, with an attention equal to the importance of the subject; and with a resolution to do every thing which the exigency of the case may require.

"To congratulate his Majesty on the birth of a prince; and to assure him, that whatever adds to the domestic happiness, stability, and increase, of his illustrious House, from which these kingdoms have received the most important benefits, must always afford the highest satisfaction to his faithful subjects.

"To express our sincere condolence on the loss of his late royal highness the duke of Cumberland; and to assure his Majesty, that the many eminent public and private virtues, the extent of capacity, and the magnanimity of mind, the affection for his Majesty's person, and the eminent services performed for this country, which distinguished that great and excellent prince, as they have left a lasting memorial in his Majesty's royal breast, so have they made an impression never to be erased from the minds of his grateful people."

Then an Amendment was proposed to be made to the said Resolution, by inserting, after the words "which the exigency of the case may require," the following words; viz. "To express to his Majesty our deep concern and indignation at the dangerous tumults and insurrections which have been raised and fomented in his Majesty's dominions of North America, in opposition to the execution of the laws, and in open defiance of the parliamentary right of Great Britain: and that we embrace with pleasure the earliest opportunity in our power to assure his Majesty, that, fully sensible of the indispensable necessity of vindicating and establishing the just power of the legislature of Great Britain, we will cheerfully concur in every measure, which may strengthen the hands of government, and enforce the legal obedience of the colonies, and their constitutional dependance on the sovereign authority of this kingdom." Which being objected to: after long debate, the question was put, "Whether the said words

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shall be there inserted?" It was resolved in the negative.

Then the following Address was agreed to:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return your Majesty our humble thanks, for your most gracious Speech from the throne.

"We should be wanting in our duty, not to assure your Majesty, that, when your Majesty shall have been pleased to communicate to your parliament those informations and advices which have been, or shall be, received from America, we will proceed to the consideration of those weighty matters, with an attention equal to the importance of the subject, and with a resolution to do every thing which the exigency of the case may require.

"Attentive to every event which affects your Majesty, permit us to congratulate your Majesty on the birth of a prince: whatever adds to your domestic happiness, and the stability and increase of that illustrious House from which these kingdoms have received the most important benefits, must always afford the highest satisfaction to your faithful subjects.

"Animated by the same sentiments of zeal and duty to your Majesty and your royal family, and under the deepest impressions of concern, we beg leave to approach your throne with our sincere condolence on the loss of his late royal highness the duke of Cumberland.

"The many eminent, public, and private virtues, the extent of capacity, and the magnanimity of mind, the affection for your Majesty's person, and the eminent services performed for this country, which distinguished that great and excellent prince, as they have left a lasting memorial in your royal breast, so have they made an impression never to be erased from the minds of your grateful people."

The King's Answer.] His Majesty returned this Answer:

"My Lords,

"The assurances you give me of your loyalty and affection are truly pleasing to me.

"I have the strongest reliance on your resolution to do every thing that may be most expedient in the present state of my colonies in America.

"I see with particular pleasure those sentiments of zeal and duty to me and my family with which you express your satisfaction on the birth of my third son, and your concern for the loss I have sustained by the death of the duke of Cumberland."

The Commons' Address of Thanks.] The Commons being returned to their House, lord George Cavendish moved,

"That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House for his most gracious Speech from the throne.

"To assure his Majesty, that we will not fail, when this House shall be supplied with its members, to apply ourselves with the utmost diligence and attention to those important occurrences in America, which his Majesty recommends to our consideration; and to exert our most zealous endeavours for the honour of his Majesty's government, and the true interest of his people, in all parts of his extended empire.

"To congratulate his Majesty on the late increase of his royal family, by the birth of a prince. His Majesty's happiness and that of his people are one; and every increase of his Majesty's illustrious family is considered by his faithful Commons, as a further security to that religion, and those liberties we enjoy under his Majesty's most auspicious government.

"To offer to his Majesty our sincere condolence on the great loss, which his Majesty and this kingdom have sustained by the death of his late royal highness the duke of Cumberland; whose private and public virtues, whose duty and affection to his Majesty, and whose distinguished merits, and services to this country, as they made his person dear to this nation while he lived, so they cannot fail to render his memory sacred to the latest posterity:"

An Amendment was proposed to be made to the question, by inserting, after the words "extended empire", these words, "to express our just resentment and indignation at the outrageous tumults and insurrections which have been excited and carried on in North America, and at the resistance given by open and rebellious force, to the execution of the laws in that part of his Majesty's dominions; to assure his Majesty that his faithful Commons, animated with the warmest duty and attachment to his royal person and government, and to the constitution of these kingdoms, will firmly and effectually support his Majesty in all such measures as shall be necessary for preserving and

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securing the legal dependance of the colonies upon this their mother country; for enforcing their due obedience to the laws; for maintaining the dignity of the crown, and asserting the indubitable and fundamental rights of the legislature of Great Britain." *

And the said proposed Amendment was, by leave of the House, withdrawn; and the original Address agreed to, as follows:

"Most Gracious Sovereign;

"We, your Majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, beg leave to return your Majesty the thanks of this House, for your most gracious Speech from the throne: and to assure your Majesty, that we will not fail, when this House shall be supplied with its members, to apply ourselves with the utmost diligence and attention to those important occurrences in America, which your Majesty recommends to our consideration; and to exert our most zealous endeavours for the honour of your Majesty's government, and the true interest of your people, in all parts of your extended empire.

"Permit us, at the same time, to congratulate your Majesty on the late increase of your royal family, by the birth of a prince. Your Majesty's happiness and that of your people are one; and every increase of your Majesty's illustrious family is considered by your faithful Commons, as a further security to that religion, and those liberties we enjoy under your Majesty's most auspicious government.

"We also beg leave to offer to your Majesty our sincere condolence on the great loss, which your Majesty and this kingdom have sustained by the death of his late royal highness the duke of Cumberland; whose private and public virtues, whose duty and affection to your Majesty, and whose distinguished merits, and services to this country, as they made his person dear to this nation while he lived, so they cannot fail to render his memory sacred to the latest posterity."

The King's Answer.] His Majesty returned this Answer:

Gentlemen:

"I return you thanks for this loyal and dutiful Address.

"The satisfaction you express in the increase of my family, and the affectionate share you take in the great loss I have sustained by the death of the duke of Cumberland, are fresh proofs of your zeal and loyalty.

"Your resolution at the same time to support the honour of my government, and to provide for the true interest of all my people, cannot but be most acceptable to me. My conduct shall always shew, that I consider their interest as inseparable from my own."

On the 20th of December, both Houses adjourned, to the 14th of January, 1766.

1766.

*The King's Speech after the Christmas Recess.**] January 14, 1766. The King

* "December 27, 1765. You have to be sure had from the office an account of what the parliament did, or rather did not do, the day of their meeting; I mean the affair of our American colonies relatively to the late imposed Stamp Duty, which our colonists absolutely refuse to pay. The administration are for some indulgence and forbearance to those froward children of their mother country: the opposition are for taking vigorous, as they call them, but I call them violent measures; not less than *les dragonades;* and to have the tax collected by the troops we have there. For my part, I never saw a froward child mended by whipping; and I would not have the mother country become a step-mother. Our trade to America brings in, *communibus annis,* two millions a year; and the Stamp Duty is but estimated at 100,000*l.* a year, which I would by no means bring into the stock of the Exchequer at the loss or even the risk of a million a year to the national stock." Lord Chesterfield to his Son.

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* "The parliament did not assemble till the 17th of December, and separated for the Christmas recess, without transacting any business, except issuing writs to fill up vacancies. In this interval, a meeting was held at the house of the marquis of Rockingham, for the purpose of arranging measures against the opening of the session, and particularly with respect to the late transactions in America. Among the persons present, were the marquis of Rockingham, lord Egmont, general Conway, Mr. Dowdeswell, the earl of Dartmouth, and Mr. Yorke. The most effective and dignified advice was, to declare, by an act of parliament, the legislative power of Great Britain over America, and inflict penalties of high treason on those who should impeach that authority, either by speaking or writing. The supremacy of the parent-country being thus ascertained, it was recommended to bring in a Bill to explain, alter, and amend the Stamp Act, in such a manner as would render the operation easy, and its provisions unexceptionable. The principal alterations were, that duties should be paid in currency, instead of sterling money; offences

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came to the House of Peers, and made the following Speech to both Houses:

"My Lords, and Gentlemen;

"When I met you last, I acquainted you that matters of importance had happened in America, which would demand the most serious attention of parliament.

"That no information which could serve to direct your deliberations in so interesting a concern might be wanting, I have ordered all the papers that give any light into the origin, the progress, or the tendency, of the disturbances which have of late prevailed in some of the northern colonies, to be immediately laid before you.

"No time has been lost, on the first advice of these disturbances, to issue orders to the governors of my provinces, and to the commanders of my forces in America, for the exertion of all the powers of government, in the suppression of riots and tumults, and in the effectual support of lawful authority.

"Whatever remains to be done on this occasion, I commit to your wisdom; not doubting but your zeal for the honour of my crown, your attention to the just rights and authority of the British legislature, and your affection and concern for the welfare and prosperity of all my people, will guide you to such sound and prudent resolutions, as may tend at once to preserve those constitutional rights over the colonies, and to restore to them that harmony and tranquillity, which have lately been interrupted by riots and disorders of the most dangerous nature.

"If any alterations should be wanting

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against the act tried in courts of record, instead of the court of vice-admiralty; and the merchants relieved, by taking off, or greatly reducing, the stamps on cocquets and clearances. But this firm and manly advice did not prevail; the opinions previously delivered by some members of administration, were incompatible with such measures; and although Mr. Dowdeswell, chancellor of the exchequer, produced letters from New York, importing that the money collected from the duty on molasses, had been detained in the colony by the threats and orders of the mob, yet no vigorous measure was resolved on. In fact, nothing was decided, except the terms in which the King's Speech should be comprised: and the ministry formed no regular or consistent plan of operation and mutual support." Adolphus: From private information, and minutes of the conference.

"Mr. Pitt did not entirely approve of the new ministry's acceptance. And lord Temple condemned them in terms of acrimony: he said, if they had followed the example of Mr. Pitt and himself, in refusing the allurements of office, the Favourite must have submitted to such conditions, as it might have been thought necessary to impose upon him; which certainly would have been an absolute and total exclusion of him and his friends from every situation and channel of secret communication with the sovereign: there must have been an end of all those unhappy suggestions which had already distracted the kingdom, and menaced the introduction of further misfortunes. This might be called violent language, but it was founded in truth and experience; and although the new ministry were not under the influence of the Favourite, yet his influence was not diminished; it might, perhaps, be said to suffer a temporary abatement, or rather it was his own policy to suspend the exercise of it, until a more suitable opportunity occurred for making another display of his power and versatility.

"The new ministry had this apology fairly to offer. Out of office they were inadequate to the performance of any service to their country; but in office they might accomplish something, though perhaps not so much as they wished; and undoubtedly they should prevent any increase, or aggravation of the public discontents. These motives were laudable. *Gradatim* was Mr. Pitt's own word in a former day. They might reason justly, that in the present unhappy partiality of the King, the constitutional exercise of the powers of government were to be obtained by degrees, not by hazarding a violent convulsion of the state; to which point some of them feared lord Temple's inflexibility might possibly extend.

"When the new ministers entered their offices, they found that many of their former subalterns were either dead, sequestered in retirement, or allied to the enemy: even the first lord of the treasury was at a loss for a private secretary of competent talents. An accomplished *commis* is an inestimable character. Mr. Fitzherbert, of Tissington, in Derbyshire, a gentleman of unexampled philanthropy, and most amiable manners, whose ambition was benevolence, and whose happiness consisted in the administration of kindness, recommended to his lordship Mr. Edmund Burke. The British dominions did not at that time furnish a more able and fit person for that important and confidential situation. He is 'the only man, since the age of Cicero, who has united the talents of speaking and writing, with irresistible force and elegance.' At the same time, his cousin, Mr. William Burke, of equal diligence, penetration and integrity, was made secretary to general Conway. There was no private interest courted or gratified by these appointments. The merit of the persons was their recommendation." Life of Lord Chatham.

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in the commercial œconomy of the plantations, which may tend to enlarge and secure the mutual and beneficial intercourse of my kingdoms and colonies, they will deserve your most serious consideration. In effectuating purposes so worthy of your wisdom and public spirit, you may depend upon my most hearty concurrence and support. The present happy tranquillity now subsisting in Europe will enable you to pursue such objects of our interior policy with a more uninterrupted attention.

"Gentlemen of the House of Commons;

"I have ordered the proper estimates for the current service of the year to be laid before you. Such supplies as you may grant shall be duly applied with the utmost fidelity, and shall be dispensed with the strictest œconomy.

"My Lords, and Gentlemen;

"I earnestly recommend to you, to proceed in your deliberations with temper and unanimity. The time requires, and I doubt not but your own inclination will lead you to, those salutary dispositions. I have nothing at heart but the assertion of legal authority, the preservation of the liberties of all my subjects, the equity and good order of my government, and the concord and prosperity of all parts of my dominions."

The Lords' Address of Thanks.] His Majesty having retired, the Earl of Dartmouth moved the following Address, which was agreed to:

"Most Gracious Sovereign;

"We, your Majesty's most loyal and dutiful subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return our hearty and most unfeigned thanks to your Majesty, for your most gracious Speech from the throne.

"We gratefully acknowledge your Majesty's goodness and condescension, in ordering to be immediately laid before us all the materials of information, which may serve to direct our proceedings upon the very important objects which your Majesty has proposed to our consideration.

"We cannot avoid expressing our satisfaction in your Majesty's parental care and vigilance, in losing no time to issue the necessary orders for exerting the several powers of government, in the suppression of riots and tumults, and the support of order and legal authority. Concurring heartily with your Majesty's salutary intentions, we will exert our utmost endeavours to assert and support your Majesty's dignity and honour, and the legislative authority of this kingdom over its colonies; and will take into consideration the most proper methods to provide for the restoration of the tranquillity of those colonies, which has been disturbed by such violent and dangerous commotions.

"We congratulate your Majesty, that the state of tranquillity, so happily subsisting in Europe, leaves us at leisure to attend to the mutual commercial concerns of your kingdoms and colonies.

"Permit us, Sir, to condole with you on the loss your Majesty and your royal family has sustained by the premature death of his royal highness prince Frederick William, whose amiable qualities and early attainments afforded so pleasing a prospect of happiness to your Majesty, and of advantage to your kingdoms.

"Our deliberations will, we trust, be conducted with that prudence and temper which your Majesty so graciously recommends. You will find, Sir, that our sentiments correspond with your Majesty's gracious intentions towards all your subjects; and that all things which may tend to re-establish tranquillity and order, and to cement the several parts of the British dominions in a close connection and constitutional dependance, shall be the first objects of our attention, that such a firm authority may be established, and such a general satisfaction diffused, over every part of your extensive empire, as ought to distinguish the government of so wise, so just, and so beneficent a prince."

The King's Answer.] His Majesty returned this Answer:

"My Lords;

"I thank you for this dutiful and loyal Address. Your firm and temperate resolution to support the dignity of my crown, and the legislative authority of this kingdom over its colonies; your care at the same time to re-establish order and tranquillity in those colonies; and your regard to the prosperity and happiness of all my people; shew dispositions which are altogether worthy of your wisdom, and which cannot fail of producing the most salutary effects both at home and abroad: you will find me unalterably fixed in the same intentions. Your affectionate condolence on the death of my brother affords me some consolation on that melancholy occasion."

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Debate in the Commons on the Address of Thanks.] The Commons being returned to their House,

Lord *Villiers* moved, "That an humble Address be presented to his Majesty, to return his Majesty our most humble thanks for his most gracious Speech from the throne.

"To assure his Majesty, that it is with the highest sense of his Majesty's goodness we acknowledge that care for the welfare of his people, and that confidence in the loyalty and affection of his faithful Commons, which his Majesty shews in the early communication, his Majesty has been pleased to order, of the necessary informations relative to the disturbances in America; that his reliance on the wisdom and duty of his parliament, in a matter of so great importance, and the attention shewn by his Majesty, in referring to their deliberation and advice, the joint concern of his Majesty's royal authority, the rights of his parliament, and the happiness of his subjects, are at once objects of our highest admiration and gratitude.

"That it is our duty, as it shall be our care to imitate that temper and equanimity, which appear in his Majesty's conduct, by mixing with our zeal for the honour of his Majesty's government, and with our just regard for the dignity and authority of parliament, the utmost attention to the important objects of the trade and navigation of these kingdoms, and the tenderest concern for the united interests of all his people.

"That it is with inexpressible grief we are again called upon to condole with his Majesty, on the death of another prince of his royal family, whose amiable disposition, and whose early virtues in the first dawn of life, while they shew him worthy of the illustrious race he sprung from, must now double our regret for his untimely loss.

"That the general state of peace and tranquillity, so happily reigning in all parts of Europe, must give the greatest satisfaction to every one, who has any concern for the true interest of his country, or who feels for the general happiness of mankind.

"That our assistance shall not be wanting, to aid his Majesty with our advice, and to strengthen his authority for the continuation of that harmony, so happily preserved by the wisdom of his Majesty's councils and the influence of his mild auspicious government.

"To assure his Majesty that we shall, with the greatest cheerfulness, grant his Majesty the supplies necessary for the current service of the year; having the firmest reliance on the promise his Majesty is graciously pleased to make, of seeing them duly applied with that œconomy, which his own wisdom will direct, and which the circumstances of this country so strongly demand.

"That the unanimity and dispatch, which his Majesty is pleased to recommend, we shall, from motives both of duty and inclination, endeavour to make the rule of our proceedings; being sensible that nothing can more immediately tend to add weight to the deliberations of parliament, or efficacy to their resolutions.

"That, as the constant tenor of his Majesty's conduct shews that the happiness and prosperity of his people are the sole objects of his concern, we should be equally wanting in duty to our sovereign, and care for our own honour, did we a moment neglect our part in promoting all such wise and salutary measures, as may tend to reflect dignity on his Majesty's government, and fix the welfare of his people on the most solid foundations."

Upon this motion a long Debate* ensued. The gentlemen in support of the motion spoke very tenderly of the disturbances raised in America, in opposition to the Stamp Act, terming them only 'occurrences;' which gave great offence to the friends of the late minister, by whom that act had been projected.

Mr. *Nugent*, (afterwards lord Clare,) insisted, That the honour and dignity of the kingdom obliged us to compel the execution of the Stamp Act, except the right was acknowledged, and the repeal solicited as a favour. He computed the expence of the troops now employed in America for their defence, as he called it, to amount to nine pence in the pound of our land tax; while the produce of the Stamp-act would not raise a shilling a head on the inhabitants of America; but

* The editor of the Life of Lord Chatham states, that this Debate was taken by sir Robert Dean, assisted by the Earl of Charlemont. A great number of the gentlemen of Ireland felt themselves deeply interested in the question of right to tax America, and at that time shewed great anxiety upon the subject. The whole debate was published in the year 1766, in the form of a pamphlet, intitled, "Political Debates," and to evade the resentment of the House, the place of impression was said to be Paris.

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that a pepper-corn, in acknowledgment of the right, was of more value, than millions without. He expatiated on the extreme ingratitude of the colonies; and concluded with charging the ministry with encouraging petitions to parliament, and instructions to members from trading and manufacturing towns, against the act.

Mr. Pitt spoke next. As he always began very low, and as every body was in agitation at his first rising, his introduction was not heard, till he said, I came to town but to-day; I was a stranger to the tenor of his Majesty's Speech, and the proposed Address, till I heard them read in this House. Unconnected and unconsulted, I have not the means of information; I am fearful of offending through mistake, and therefore beg to be indulged with a second reading of the proposed Address. [The Address being read, Mr. Pitt went on:] He commended the King's Speech, approved of the Address in answer, as it decided nothing. every gentleman being left at perfect liberty to take such a part concerning America, as he might afterwards see fit. One word only he could not approve of, an 'early,' is a word that does not belong to the notice the ministry have given to parliament of the troubles in America. In a matter of such importance, the communication ought to have been immediate: I speak not with respect to parties; I stand up in this place single and unconnected. As to the late ministry (turning himself to Mr. Grenville, who sat within one of him) every capital measure they have taken, has been entirely wrong!

As to the present gentlemen, to those at least whom I have in my eye (looking at the bench where Mr. Conway sat, with the lords of the treasury) I have no objection; I have never been made a sacrifice by any of them. Their characters are fair; and I am always glad when men of fair character engage in his Majesty's service. Some of them have done me the honour to ask my poor opinion, before they would engage. These will do me the justice to own I advised them to engage; but notwithstanding, I love to be explicit; I cannot give them my confidence; pardon me, gentlemen, (bowing to the ministry) confidence is a plant of slow growth in an aged bosom: youth is the season of credulity; by comparing events with each other, reasoning from effects to causes, methinks, I plainly discover the traces of an over-ruling influence.

There is a clause in the Act of Settlement, to oblige every minister to sign his name to the advice which he gives his sovereign. Would it were observed! I have had the honour to serve the crown, and if I could have submitted to influence, I might have still continued to serve; but I would not be responsible for others. I have no local attachments: it is indifferent to me, whether a man was rocked in his cradle on this side or that side of the Tweed. I sought for merit wherever it was to be found. It is my boast, that I was the first minister who looked for it, and I found it in the mountains of the north. I called it forth, and drew it into your service, an hardy and intrepid race of men! men, who, when left by your jealousy, became a prey to the artifices of your enemies, and had gone nigh to have overturned the state, in the war before the last. These men, in the last war, were brought to combat on your side: they served with fidelity, as they fought with valour, and conquered for you in every part of the world: detested be the national reflections against them! they are unjust, groundless, illiberal, unmanly. When I ceased to serve his Majesty as a minister, it was not the country of the man by which I was moved, but the man of that country wanted wisdom, and held principles incompatible with freedom.

It is a long time, Mr. Speaker, since I have attended in parliament. When the resolution was taken in the House to tax America, I was ill in bed. If I could have endured to have been carried in my bed, so great was the agitation of my mind for the consequences! I would have solicited some kind hand to have laid me down on this floor, to have borne my testimony against it. It is now an act that has passed; I would speak with decency of every act of this House, but I must beg the indulgence of the House to speak of it with freedom.

I hope a day may be soon appointed to consider the state of the nation with respect to America. I hope gentlemen will come to this debate with all the temper and impartiality that his Majesty recommends, and the importance of the subject requires. A subject of greater importance than ever engaged the attention of this House! that subject only excepted, when near a century ago, it was the question whether you yourselves were to be bound, or free. In the mean time, as I cannot

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depend upon health for any future day, such is the nature of my infirmities, I will beg to say a few words at present, leaving the justice, the equity, the policy, the expediency of the act, to another time. I will only speak to one point, a point which seems not to have been generally understood, I mean to the right. Some gentlemen (alluding to Mr. Nugent) seem to have considered it as a point of honour. If gentlemen consider it in that light, they leave all measures of right and wrong, to follow a delusion that may lead to destruction. It is my opinion, that this kingdom has no right to lay a tax upon the colonies. At the same time, I assert the authority of this kingdom over the colonies, to be sovereign and supreme, in every circumstance of government and legislation whatsoever. They are the subjects of this kingdom, equally entitled with yourselves to all the natural rights of mankind and the peculiar privileges of Englishmen. Equally bound by its laws, and equally participating of the constitution of this free country. The Americans are the sons, not the bastards, of England. Taxation is no part of the governing or legislative power. The taxes are a voluntary gift and grant of the Commons alone. In legislation the three estates of the realm are alike concerned, but the concurrence of the peers and the crown to a tax, is only necessary to close with the form of a law. The gift and grant is of the Commons alone. In ancient days, the crown, the barons, and the clergy possessed the lands. In those days, the barons and the clergy gave and granted to the crown. They gave and granted what was their own. At present, since the discovery of America, and other circumstances permitting, the Commons are become the proprietors of the land. The crown has divested itself of its great estates. The church (God bless it) has but a pittance. The property of the Lords, compared with that of the Commons, is as a drop of water in the ocean: and this House represents those Commons, the proprietors of the lands; and those proprietors virtually represent the rest of the inhabitants. When, therefore, in this House we give and grant, we give and grant what is our own. But in an American tax, what do we do? We, your Majesty's Commons of Great Britain, give and grant to your Majesty, what? Our own property? No. We give and grant to your Majesty, the property of your Majesty's commons of America. It is an absurdity in terms.

The distinction between legislation and taxation is essentially necessary to liberty. The Crown, the Peers, are equally legislative powers with the Commons. If taxation be a part of simple legislation, the Crown, the Peers, have rights in taxation as well as yourselves: rights which they will claim, which they will exercise, whenever the principle can be supported by power.

There is an idea in some, that the colonies are virtually represented in this House. I would fain know by whom an American is represented here? Is he represented by any knight of the shire, in any county in this kingdom? Would to God that respectable representation was augmented to a greater number! Or will you tell him, that he is represented by any representative of a borough—a borough, which perhaps, its own representative never saw. This is what is called, 'the rotten part of the constitution.' It cannot continue the century; if it does not drop, it must be amputated. The idea of a virtual representation of America in this House, is the most contemptible idea that ever entered into the head of a man; it does not deserve a serious refutation.

The Commons of America, represented in their several assemblies, have ever been in possession of the exercise of this, their constitutional right, of giving and granting their own money. They would have been slaves if they had not enjoyed it. At the same time, this kingdom, as the supreme governing and legislative power, has always bound the colonies by her laws, by her regulations, and restrictions in trade, in navigation, in manufactures, in every thing, except that of taking their money out of their pockets without their consent.

Here I would draw the line,

'Quam ultra citraque nequit consistere rectum.'

He concluded with a familiar voice and tone, but so low that it was not easy to distinguish what he said. A considerable pause ensued after Mr. Pitt had done speaking.

Mr. *Conway* at length got up. He said, he had been waiting to see whether any answer would be given to what had been advanced by the right hon. gentleman, reserving himself for the reply: but as none had been given, he had only to declare, that his own sentiments were entirely conformable to those of the right hon. gentleman—That they are so conformable, he

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said, is a circumstance that affects me with most sensible pleasure, and does me the greatest honour. But two things fell from that gentleman, which give me pain, as whatever falls from that gentleman, falls from so great a height as to make a deep impression. I must endeavour to remove it. It was objected, that the notice given to parliament of the troubles in America was not early. I can assure the House, the first accounts were too vague and imperfect to be worth the notice of parliament. It is only of late that they have been precise and full. An over-ruling influence has also been hinted at. I see nothing of it; I feel nothing of it; I disclaim it for myself, and (as far as my discernment can reach), for all the rest of his Majesty's ministers.

Mr. *Pitt* said in answer to Mr. Conway, The excuse is a valid one, if it is a just one. That must appear from the papers now before the House.

Mr. *Grenville* next stood up. He began with censuring the ministry very severely, for delaying to give earlier notice to parliament of the disturbances in America. He said, They began in July, and now we are in the middle of January; lately they were only occurrences, they are now grown to disturbances, to tumults and riots. I doubt they border on open rebellion; and if the doctrine I have heard this day be confirmed, I fear they will lose that name to take that of revolution. The government over them being dissolved, a revolution will take place in America. I cannot understand the difference between external and internal taxes. They are the same in effect, and only differ in name. That this kingdom has the sovereign, the supreme legislative power over America, is granted. It cannot be denied; and taxation is a part of that sovereign power. It is one branch of the legislation. It is, it has been exercised, over those who are not, who were never represented. It is exercised over the India Company, the merchants of London, the proprietors of the stocks, and over many great manufacturing towns. It was exercised over the palatinate of Chester, and the bishopric of Durham, before they sent any representatives to parliament. I appeal, for proof, to the preambles of the acts which gave them representatives: the one in the reign of Henry 8, the other in that of Charles 2. [Mr. Grenville then quoted the acts, and desired that they might be read; which being done, he said:] When I proposed to tax America, I asked the House, if any gentleman would object to the right; I repeatedly asked it, and no man would attempt to deny it. Protection and obedience are reciprocal. Great Britain protects America; America is bound to yield obedience. If not, tell me when the Americans were emancipated? When they want the protection of this kingdom, they are always very ready to ask it. That protection has always been afforded them in the most full and ample manner. The nation has run itself into an immense debt to give them their protection; and now they are called upon to contribute a small share towards the public expence, an expence arising from themselves, they renounce your authority, insult your officers, and break out, I might almost say, into open rebellion. The seditious spirit of the colonies owes its birth to the factions in this House. Gentlemen are careless of the consequences of what they say, provided it answers the purposes of opposition. We were told we trod on tender ground; we were bid to expect disobedience. What was this, but telling the Americans to stand out against the law, to encourage their obstinacy with the expectation of support from hence? Let us only hold out a little, they would say, our friends will soon be in power. Ungrateful people of America! Bounties have been extended to them. When I had the honour of serving the crown, while you yourselves were loaded with an enormous debt, you have given bounties on their lumber, on their iron, their hemp, and many other articles. You have relaxed, in their favour, the Act of Navigation, that palladium of the British commerce; and yet I have been abused in all the public papers as an enemy to the trade of America. I have been particularly charged with giving orders and instructions to prevent the Spanish trade, and thereby stopping the channel, by which alone North America used to be supplied with cash for remittances to this country. I defy any man to produce any such orders or instructions. I discouraged no trade but what was illicit, what was prohibited by act of parliament. I desire a West India merchant, well known in the city (Mr. Long), a gentleman of character, may be examined. He will tell you, that I offered to do every thing in my power to advance the trade of America. I was above giving an answer to anonymous calumnies;

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but in this place, it becomes one to wipe off the aspersion.

Here Mr. Grenville ceased. Several members got up to speak, but

Mr. *Pitt* seeming to rise, the House was so clamorous for Mr. Pitt! Mr. Pitt! that the Speaker was obliged to call to order. After obtaining a little quiet, he said, 'Mr. Pitt was up!' who began with informing the House, That he did not mean to have gone any further upon the subject that day: that he had only designed to have thrown out a few hints, which, gentlemen who were so confident of the right of this kingdom to send taxes to America, might consider; might, perhaps, reflect in a cooler moment, that the right was at least equivocal. But since the gentleman, who spoke last, had not stopped on that ground, but had gone into the whole; into the justice, the equity, the policy, the expediency of the Stamp-Act, as well as into the right, he would follow him through the whole field, and combat his arguments on every point.

He was going on, when

Lord *Strange* got up, and called both the gentlemen, Mr. Pitt, and Mr. Grenville, to order. He said, they had both departed from the matter before the House, which was the King's Speech; and that Mr. Pitt was going to speak twice on the same debate, although the House was not in a committee.

Mr. *George Onslow* answered, That they were both in order, as nothing had been said, but what was fairly deducible from the King's Speech; and appealed to the Speaker. The Speaker decided in Mr. Onslow's favour.

Mr. *Pitt* said, I do not apprehend I am speaking twice: I did expressly reserve a part of my subject, in order to save the time of this House, but I am compelled to proceed in it. I do not speak twice; I only finish what I designedly left imperfect. But if the House is of a different opinion, far be it from me to indulge a wish of transgression, against order. I am content, if it be your pleasure, to be silent.—Here he paused—The House resounding with, 'Go on, go on;' he proceeded:

Gentlemen, Sir, (to the Speaker) I have been charged with giving birth to sedition in America. They have spoken their sentiments with freedom, against this unhappy act, and that freedom has become their crime. Sorry I am to hear the liberty of speech in this House, imputed as a crime. But the imputation shall not discourage me. It is a liberty I mean to exercise. No gentleman ought to be afraid to exercise it. It is a liberty by which the gentleman who calumniates it might have profited. He ought to have profited. He ought to have desisted from his project. The gentleman tells us, America is obstinate; America is almost in open rebellion. I rejoice that America has resisted. Three millions of people, so dead to all the feelings of liberty, as voluntarily to submit to be slaves, would have been fit instruments to make slaves of the rest. I come not here armed at all points, with law cases and acts of parliament, with the statute-book doubled down in dogs-ears, to defend the cause of liberty: if I had, I myself would have cited the two cases of Chester and Durham. I would have cited them, to have shewn, that, even under any arbitrary reigns, parliaments were ashamed of taxing a people without their consent, and allowed them representatives. Why did the gentleman confine himself to Chester and Durham? He might have taken a higher example in Wales; Wales, that never was taxed by parliament, till it was incorporated. I would not debate a particular point of law with the gentleman: I know his abilities. I have been obliged to his diligent researches. But, for the defence of liberty upon a general principle, upon a constitutional principle, it is a ground on which I stand firm; on which I dare meet any man. The gentleman tells us of many who are taxed, and are not represented—The India company, merchants, stock-holders, manufacturers. Surely many of these are represented in other capacities, as owners of land, or as freemen of boroughs. It is a misfortune that more are not actually represented. But they are all inhabitants, and, as such, are virtually represented. Many have it in their option to be actually represented. They have connexions with those that elect, and they have influence over them. The gentleman mentioned the stock-holders: I hope he does not reckon the debts of the nation as a part of the national estate. Since the accession of king William, many ministers, some of great, others of more moderate abilities, have taken the lead of government.

He then went through the list of them, bringing it down till he came to himself, giving a short sketch of the characters of each of them. None of these, he said,

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thought, or ever dreamed, of robbing the colonies of their constitutional rights. That was reserved to mark the æra of the late administration: not that there were wanting some, when I had the honour to serve his Majesty, to propose to me to burn my fingers with an American Stamp-Act. With the enemy at their back, with our bayonets at their breasts, in the day of their distress, perhaps the Americans would have submitted to the imposition; but it would have been taking an ungenerous, and unjust advantage. The gentleman boasts of his bounties to America! Are not those bounties intended finally for the benefit of this kingdom? If they are not, he has misapplied the national treasures. I am no courtier of America, I stand up for this kingdom. I maintain, that the parliament has a right to bind, to restrain America. Our legislative power over the colonies is sovereign and supreme. When it ceases to be sovereign and supreme, I would advise every gentleman to sell his lands, if he can, and embark for that country. When two countries are connected together, like England and her colonies, without being incorporated, the one must necessarily govern; the greater must rule the less; but so rule it, as not to contradict the fundamental principles that are common to both.

If the gentleman does not understand the difference between internal and external taxes, I cannot help it; but there is a plain distinction between taxes levied for the purposes of raising a revenue, and duties imposed for the regulation of trade, for the accommodation of the subject; although, in the consequences, some revenue might incidentally arise from the latter.

The gentleman asks, when were the colonies emancipated? But I desire to know, when they were made slaves? But I dwell not upon words. When I had the honour of serving his Majesty, I availed myself of the means of information, which I derived from my office: I speak, therefore, from knowledge. My materials were good. I was at pains to collect, to digest, to consider them; and I will be bold to affirm, that the profits to Great Britain from the trade of the colonies, through all its branches, is two millions a year. This is the fund that carried you triumphantly through the last war. The estates that were rented at two thousand pounds a year, threescore years ago, are at three thousand pounds at present. Those estates sold then from fifteen to eighteen years purchase; the same may be now sold for thirty. You owe this to America. This is the price that America pays you for her protection. And shall a miserable financier come with a boast, that he can fetch a pepper-corn into the exchequer, to the loss of millions to the nation! I dare not say, how much higher these profits may be augmented. Omitting the immense increase of people, by natural population, in the northern colonies, and the migration from every part of Europe, I am convinced the whole commercial system of America may be altered to advantage. You have prohibited, where you ought to have encouraged; and you have encouraged where you ought to have prohibited. Improper restraints have been laid on the continent, in favour of the islands. You have but two nations to trade with in America. Would you had twenty! Let acts of parliament in consequence of treaties remain, but let not an English minister become a custom-house officer for Spain, or for any foreign power. Much is wrong, much may be amended for the general good of the whole.

Does the gentleman complain he has been misrepresented in the public prints? It is a common misfortune. In the Spanish affair of the last war, I was abused in all the news-papers, for having advised his Majesty to violate the law of nations with regard to Spain. The abuse was industriously circulated even in hand-bills. If administration did not propagate the abuse, administration never contradicted it. I will not say what advice I did give to the King. My advice is in writing, signed by myself, in the possession of the crown. But I will say, what advice I did not give to the King: I did not advise him to violate any of the laws of nations.

As to the report of the gentleman's preventing in some way the trade for bullion with the Spaniards, it was spoken of so confidently, that I own I am one of those who did believe it to be true.

The gentleman must not wonder he was not contradicted, when, as the minister, he asserted the right of parliament to tax America. I know not how it is, but there is a modesty in this House, which does not chuse to contradict a minister. I wish gentlemen would get the better of this modesty. Even that Chair, Sir, looks too often towards St. James's. If they do not, perhaps, the collective body may be-

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gin to abate of its respect for the representative. Lord Bacon had told me, that a great question would not fail of being agitated at one time or another. I was willing to agitate that at the proper season, the German war: my German war, they called it. Every session I called out, Has any body any objections to the German war? Nobody would object to it, one gentleman only excepted, since removed to the upper House, by succession to an ancient barony, (meaning lord le Despencer, formerly sir Francis Dashwood;) he told me, "he did not like a German war." I honoured the man for it, and was sorry when he was turned out of his post.

A great deal has been said without doors, of the power, of the strength of America. It is a topic that ought to be cautiously meddled with. In a good cause, on a sound bottom, the force of this country can crush America to atoms. I know the valour of your troops. I know the skill of your officers. There is not a company of foot that has served in America, out of which you may not pick a man of sufficient knowledge and experience, to make a governor of a colony there. But on this ground, on the Stamp Act, when so many here will think it a crying injustice, I am one who will lift up my hands against it.

In such a cause, your success would be hazardous. America, if she fell, would fall like a strong man. She would embrace the pillars of the state, and pull down the constitution along with her. Is this your boasted peace? Not to sheath the sword in its scabbard, but to sheath it in the bowels of your countrymen? Will you quarrel with yourselves, now the whole House of Bourbon is united against you? While France disturbs your fisheries in Newfoundland, embarrasses your slave trade to Africa, and withholds from your subjects in Canada, their property stipulated by treaty; while the ransom for the Manillas is denied by Spain, and its gallant conqueror basely traduced into a mean plunderer, a gentleman, (colonel Draper) whose noble and generous spirit would do honour to the proudest grandee of the country. The Americans have not acted in all things with prudence and temper. They have been wronged. They have been driven to madness by injustice. Will you punish them for the madness you have occasioned? Rather let prudence and temper come first from this side. I will undertake for America, that she will follow the example. There are two lines in a ballad of Prior's, of a man's behaviour to his wife, so applicable to you and your colonies, that I cannot help repeating them:

'Be to her faults a little blind:
'Be to her virtues very kind.'

Upon the whole, I will beg leave to tell the House what is really my opinion. It is, that the Stamp Act be repealed absolutely, totally, and immediately. That the reason for the repeal be assigned, because it was founded on an erroneous principle. At the same time, let the sovereign authority of this country over the colonies, be asserted in as strong terms as can be devised, and be made to extend to every point of legislation whatsoever. That we may bind their trade, confine their manufactures, and exercise every power whatsoever, except that of taking their money out of their pockets without their consent.*

Mr. *Nicholson Calvert* said:

Sir; I last year gave my vote for laying a stamp duty in North America: the right of the legislature of Great Britain was not then called in question: and I must confess I did then think nothing could be founded more upon the basis of equity and fairness, than for America to support that force which was to be maintained merely and solely for her benefit and protection.

I have, Sir, since that time altered my opinion. I think, Sir, it ill behoves any member of this House to change his opinion lightly. I therefore beg leave, in the shortest manner I am able, to lay before the House those reasons which have thus induced me to change my opinion, and at the same time not presuming to think any thing I can lay before the House can give the least weight or addition to the great opinions which have been already offered, but merely as an apology for my own conduct in this great and important business.

On the outset of this great affair, Sir, two opinions, both equally true, (though carrying with them a seeming contradiction in this particular) were set before us, The one, that in all free countries no one can be taxed but by himself, or representative. The other, that there never was

* "In the course of this debate, Mr. Edmund Burke made his first speech in parliament; and Mr. Pitt complimented him upon it, in terms peculiarly flattering to a young man." Life of lord Chatham.

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any country, since the Creation, where there was not somewhere lodged, for the superintendancy of the whole, one supreme legislative authority, controling, directing, and governing the whole.

As to the first proposition, no doubt of it, it is, according to all the authors who have ever wrote upon that subject, the very criterion of liberty; there is no lover of liberty but treats it as such. The right hon. gentleman (Mr. Pitt) reasoning upon this subject, "That the Americans migrating from this country, carrying with them all the rights of free-born Englishmen, struggling through the greatest hardships and difficulties, having at last founded that which will one day produce a mighty empire, having lived uninterruptedly for the space of near two centuries, without any internal tax laid upon them; that the moment you lay that tax upon them, they are that instant slaves; for they that moment cease to have any property, when you have once confirmed an authority of taking any part of that property away, unheard, unrepresented, that you have the same right to every farthing they are worth, as to any part of it."

I must own, Sir, these arguments struck deep into my mind; I saw the right hon. gentleman's reasoning founded on the broad basis of liberty, and, for ought I know, of sound policy. But alas, Sir! I could not at the same time but most heartily from my soul lament the truly deplorable state of this country; the present generation (and I see not any prospect for the succeeding one more promising) passing away in beggary and distress, all resources whatever cut off, and all this for our future benefit and advantage. God send it may so prove!

But, Sir, as this matter has been cut short by the resolution of this House; that the parliament of Great Britain has, in all cases whatever, a right to lay taxes upon her colonies; the great question now before you, I think, may be confined to two points; that having this right, how far you may be able to carry it into execution? Or, being able to carry it into execution, how far it may be thought proper and prudent to exert that authority under the present situation?

Sir, it has always been my opinion, to lay any taxes upon a numerous people, situated as the Americans are, without their consent, is impossible. It is a widely different thing, Sir, the quelling a paltry riot in Moorfields, or Bloomsbury-square, to that of making two millions of people, distributed from one corner of the American continent to the other, all unanimous in the opinion of right being on their side, submit to your decisions. It matters little to the question, whether they are in the right or not; they think themselves so.

Can this be done but by force? The thought of putting it to the trial, Sir, strikes me with horror! Let us not, Sir, drive them to despair; the despair of a brave people always turns to courage: that courage once exerted, God knows what may be the end of it. But, alas! will those misfortunes await the Americans alone! What must become of your own manufacturers here at home, while this contest is carrying on in America? Will the many thousands of this country, who depend on your American trade for their support, remain quiet, without victuals to eat, till you have made the Americans submit by force of arms? I much doubt whether the mischief may not be brought to your own doors long before the conflict is ended.

Upon the whole, Sir, notwithstanding the right is now so indubitably asserted by the legislature of this country, notwithstanding you were certain by force of arms to carry that resolution into execution, yet I for one should be of opinion, that right, and that ability to exercise that right, is, at this time, neither proper nor expedient to be carried into execution.

The Commons' Address of Thanks.] The Address was then agreed to without a division, as follows:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, return your Majesty our most humble thanks for your most gracious Speech from the throne.

"It is with the highest sense of your Majesty's goodness we acknowledge that care for the welfare of your people, and that confidence in the loyalty and affection of your faithful Commons, which your Majesty shews in the early communication your Majesty has been pleased to order, of the necessary informations relative to the disturbances in America. Your reliance on the wisdom and duty of your parliament in a matter of so great importance, and the attention shewn by your Majesty, in reserving to our deliberation and advice the joint concern of your Majesty's royal authority, the rights of your parliament,

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and the happiness of your subjects, are at once objects of our highest admiration and gratitude.

"It is our duty, as it shall be our care, to imitate that temper and equanimity which appears in your Majesty's conduct, by mixing with our zeal for the honour of your Majesty's government, and with our just regard for the dignity and authority of parliament, the utmost attention to the important objects of the trade and navigation of these kingdoms, and the tenderest concern for the united interest of all your Majesty's people.

"It is with inexpressible grief we are again called upon to condole with your Majesty on the death of another prince of your royal family, whose amiable disposition, and whose early virtues in the first dawn of life, while they shew him worthy of the illustrious race he sprung from, must now double our regret for his untimely loss.

"The general state of peace and tranquillity, so happily reigning in all parts of Europe, must give the greatest satisfaction to every one who has any concern for the true interest of this country, or who feels for the general happiness of mankind.

"Our assistance shall not be wanting to aid your Majesty with our advice, and to strengthen your authority, for the continuation of that harmony, so happily preserved by the wisdom of your Majesty's councils, and the influence of your mild auspicious government.

"We assure your Majesty that we shall, with the greatest cheerfulness, grant your Majesty the supplies necessary for the current service of the year, having the firmest reliance on the promise your Majesty is graciously pleased to make, of seeing them duly applied, with that economy which your own wisdom will direct, and which the circumstances of this country so strongly demand.

"The unanimity and dispatch which your Majesty is pleased to recommend, we shall, from motives both of duty and inclination, endeavour to make the rule of our proceedings; being sensible that nothing can more immediately tend to add weight to the deliberations of parliament, or efficacy to their resolutions.

"And as the constant tenor of your Majesty's conduct shews that the happiness and prosperity of your people are the sole objects of your concern, we should be equally wanting in duty to our sovereign, and care of our own honour, did we a moment neglect our part, in promoting all such wise and salutary measures as may tend to reflect dignity on your Majesty's government, and fix the welfare of your people on the most solid foundations."

PAPERS RELATING TO THE DISTURBANCES IN AMERICA, ON ACCOUNT OF THE STAMP ACT.] The following are copies of some of the most material Letters and Papers relative to the disturbances in America, which Mr. Secretary Conway, by his Majesty's command, laid this day before the House of Commons.

LETTER from Mr. Secretary CONWAY, to Lieut. Gov. FAQUIER.

Sept. 14, 1765.

Sir; It is with the greatest pleasure I received his Majesty's commands to declare to you his most gracious approbation of your conduct. His Majesty and his servants are satisfied, that the precipitate resolutions you sent home did not take their rise from any remissness or inattention in you; nor is his Majesty at all inclined to suppose, that any instance of diffidence or dissatisfaction could be founded in the general inclination of his antient and loyal colony of Virginia; the nature of the thing and your representations induce a persuasion, that those ill-advised resolutions owed their birth to the violence of some individuals, who taking the advantage of a thin assembly, so far prevailed, as to publish their own unformed opinions to the world as the sentiments of the colony. But his Majesty, Sir, will not, by the prevalence of a few men, at a certain moment, be persuaded to change the opinion, or lessen the confidence, he has always entertained of the colony of Virginia; which has always experienced the protection of the crown. His Majesty's servants, therefore, with entire reliance on your prudence, and on the virtue and wisdom of the colony entrusted to your care, persuade themselves, that when a full assembly shall calmly and maturely deliberate upon those resolutions, they will see, and be themselves alarmed at, the dangerous tendency and mischievous consequences which they might be productive of, both to the mother country and the colonies, which are the equal objects of his Majesty's parental care; and whose mutual happiness and prosperity certainly require a confidential reliance of the colonies upon the mother country.

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Upon these principles, Sir, and upon your prudent management, and a proper representation to the wise and sober part of the people, how earnest his Majesty is to extend the happy influence of his fatherly care over every part of his dominions, it is expected that a full assembly will form very different resolutions, such as may cement that union, which alone can establish the safety and prosperity of the colonies, and the mother country.

As there is no intention in the crown to attempt, nor in the King's servants to advise, any incroachments on the real rights and liberties of any part of his Majesty's subjects; so neither will his Majesty undoubtedly submit, or servants advise, under any circumstances, that the respect which is due to parliament, and which is necessary for the general good of the whole British empire, should any where be made a sacrifice to local and dangerous prejudices.

As this important matter is, however, now before his Majesty's privy council, as well as the other consideration of the dangerous riot and mutinous behaviour of the people on the frontiers, I shall not pretend to give any advice or instructions on these subjects; not doubting, but you will soon have the fullest from the wisdom of that board, in all those things, in which, by your last accounts, the most essential interests of the colony are so deeply concerned.

You will therefere, in the mean time, be very attentive, by every prudent measure in your power, at once to maintain the just rights of the British government, and to preserve the peace and tranquillity of the provinces committed to your care.

But as these appear to me matters of government fit for his Majesty's more immediate notice and information, I must beg you will not fail to transmit to me such occurrences, from time to time, on these heads, as you may deem of importance in the light I mention. I am, &c.

H. S. CONWAY.

Extract of a LETTER from Mr. Secretary CONWAY, to Major General GAGE.

October 24, 1765.

Sir; It is with the greatest concern, that his Majesty learns the disturbances which have arisen in some of the North American colonies: these events will probably create application to you, in which the utmost exertion of your prudence may be necessary; so as justly to temper your conduct between that caution and coolness, which the delicacy of such a situation may demand on the one hand, and the vigour necessary to suppress outrage and violence on the other. It is impossible, at this distance, to assist you by any particular or positive instruction, because you will find yourself necessarily obliged to take your resolution as particular circumstances and emergencies may require.

It is hoped, and expected, that this want of confidence in the justice and tenderness of the mother country, and this open resistance to its authority, can only have found place among the lower and more ignorant of the people. The better and wiser part of the colonies will know, that decency and submission may prevail not only to redress grievances, but to obtain grace and favour, while the outrage of a public violence can expect nothing but severity and chastisement. You and all his Majesty's servants, from a sense of your duty to, and love of, your country, will endeavour to excite and encourage these sentiments.

If, by lenient and persuasive methods, you can contribute to restore that peace and tranquillity to the provinces, on which their welfare and happiness depend, you will do a most acceptable and essential service to your country: but having taken every step which the utmost prudence and lenity can dictate, in compassion to the folly and ignorance of some misguided people, you will not, on the other hand, where your assistance may be wanted to strengthen the hands of government, fail to concur in every proper measure for its support, by such a timely exertion of force as may be necessary to repel acts of outrage and violence, and to provide for the maintenance of peace and good order in the provinces.

LETTER from Mr. Secretary CONWAY, to Governor BERNARD.

October, 24, 1765.

Sir; your letters of the 15th, 16th, 22d and 31st of August have been received: the three former not till yesterday.

It is with the greatest concern his Majesty learns the disturbances which have lately arisen in your province, the general confusion that seems to reign there, and the total languor and want of energy, in your government, to exert itself with any dignity or efficacy, for the suppression of tumults, which seem to strike at the very

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being of all authority and subordination among you. His Majesty cannot but, with the greatest surprise, hear of the refusal of your council to call for the aid of any regular force to the support of the civil magistracy, at a time when, it seems, you had reason to think, there was no other power capable of providing for the peace and quiet of the province.

Nothing can, certainly, exceed the ill-advised and intemperate conduct held by a party in your province, which can in no way contribute to the removal of any real grievance they might labour under, but may tend to obstruct and impede the exertion of his Majesty's benevolent attention to the ease and comfort, as well as the welfare, of all his people.

It is hoped, and expected, that this want of confidence in the justice and tenderness of the mother country, and this open resistance to its authority, can only have found place among the lower and more ignorant of the people; the better and more wise part of the colonies will know, that decency and submission may prevail, not only to redress grievances, but to obtain grace and favour, while the outrage of a public violence can expect nothing but severity and chastisement. These sentiments, you, and all his Majesty's servants, from a sense of your duty to, and love of, your country, will endeavour to excite and encourage: you will all, in a particular manner, call upon them not to render their case desperate; you will, in the strongest colours, represent to them the dreadful consequences that must inevitably attend the forcible and violent resistance to acts of the British parliament, and the scene of misery and distraction to both countries, inseparable from such a conduct.

If, by lenient and persuasive methods, you can contribute to restore that peace and tranquillity to the provinces, on which their welfare and happiness depend, you will do a most acceptable and essential service to your country; but having taken every step which the utmost prudence and lenity can dictate, in compassion to the folly and ignorance of some misguided people, you will not, on the other hand, fail to use your utmost power for repelling all acts of outrage and violence, and to provide for the maintenance of peace and good order in the province, by such a timely exertion of force, as the occasion may require; for which purpose, you will make the proper applications to general Gage, or lord Colvil, commanders of his Majesty's land and naval forces in America: for however unwillingly his Majesty may consent to the exertion of such powers as may endanger the safety of a single subject, yet can he not permit his own dignity, and the authority of the British legislature, to be trampled on by force and violence, and in avowed contempt of all order, duty, and decorum.

If the subject is aggrieved, he knows in what manner legally and constitutionally to apply for relief: but it is not suitable, either to the safety or dignity of the British empire, that any individuals, under the pretence of redressing grievances, should presume to violate the public peace. I am, &c. H. S. CONWAY.

P. S. The sloop which carries this will carry orders to lord Colvil, and to the governor of Nova Scotia, to send to your assistance any force which may be thought necessary from thence, and which that province can supply.

Mr. Secretary CONWAY'S CIRCULAR LETTER to the Governors in North America.

October 24, 1765.

Sir; it is with the greatest concern, that his Majesty learns the disturbances which have arisen in some of the North American colonies: if this evil should spread to the government of ——, where you preside, the utmost exertion of your prudence will be necessary, so as justly to temper your conduct between that caution and coolness which the delicacy of such a situation may demand, on the one hand, and the vigour necessary to suppress outrage and violence on the other. It is impossible, at this distance, to assist you, by any particular or positive instruction; because you will find yourself necessarily obliged to take your resolution, as particular circumstances and emergencies may require.

His Majesty, and the servants he honours with his confidence, cannot but lament the ill-advised intemperance shewn already in some of the provinces, by taking up a conduct, which can in no way contribute to the removal of any real grievance they might labour under, but may tend to obstruct and impede the exertion of his Majesty's benevolence and attention to the ease and comfort, as well as the welfare, of all his people.

It is hoped and expected, that this want of confidence in the justice and tenderness of the mother country, and this open re-

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sistance to its authority, can only have found place among the lower and more ignorant of the people. The better and wiser part of the colonies will know, that decency and submission may prevail, not only to redress grievances, but to obtain grace and favour, while the outrage of a public violence can expect nothing but severity and chastisement. These sentiments you, and all his Majesty's servants from a sense of your duty to, and love of, your country, will endeavour to excite and encourage.

You will all, in a particular manner, call upon them not to render their case desperate. You will, in the strongest colours, represent to them the dreadful consequences that must inevitably attend the forcible and violent resistance to acts of the British parliament, and the scene of misery and calamity to themselves, and of mutual weakness and distraction to both countries, inseparable from such a conduct.

If, by lenient and persuasive methods, you can contribute to restore that peace and tranquillity to the provinces, on which depend their welfare and happiness, you will do a most acceptable and essential service to your country: but having taken every step which the utmost prudence and lenity can dictate, in compassion to the folly and ignorance of some misguided people, you will not, on the other hand, fail to use your utmost power, for repelling all acts of outrage and violence, and to provide for the maintenance of peace and good order in the province, by such a timely exertion of force as the occasion may require: for which purpose, you will make the proper applications to general Gage, or lord Colvil, commanders of his Majesty's land and naval forces in America. For however unwillingly his Majesty may consent to the exertion of such powers as may endanger the safety of a single subject; yet can he not permit his own dignity, and the authority of the British legislature, to be trampled on by force and violence, and in avowed contempt of all order, duty and decorum.

If the subject is aggrieved, he knows in what manner legally and constitutionally to apply for relief; but it is not suitable, either to the safety or dignity of the British empire, that any individuals, under the pretence of redressing grievances, should presume to violate the public peace. I am, &c. H. S. Conway.

P. S. To Governor Wilmot.

You will probably receive application from governor Bernard, to send him part of the force which may be within your government. Lord Colvil has command to transport them; and you will be very attentive, that the public service should suffer no impediment from any delay in you, when such application is made.

Extract of a Letter from Mr. Secretary Conway, to Major General Gage.

December 15, 1765.

Sir; I had the favour of your letters of the 4th, 8th, and 9th of November last, by which I learn, with the utmost concern, the disordered state of the province where you reside, and the very riotous and outrageous behaviour of too many of the inhabitants.

I did not fail to lay your dispatches, together with those of lieutenant governor Colden, before his Majesty, who, though highly provoked by such an insult offered to his governor there, is however pleased to hear, that matters were not pushed to such extremity, as might have cost the lives of many of his subjects, and perhaps have tended, as you seem apprehensive, to the great detriment, if not ruin, of the town of New York; particularly if the fort had fired on that insolent and infatuated mob which so provokingly approached. The temper shewn, as well by lieutenant governor Colden, as by the officers there, is highly to be commended. His Majesty is willing to suppose, that both yourself and governor Colden have acted on principles of duty to his service, in the advice and resolution formed to put the stampt paper into the hands of the magistrates of New York; which, however, unless the necessity for it appeared very pressing, must certainly be looked upon as a step greatly humiliating and derogating to his Majesty's government.

If the post was not tenable, or the papers insecure there, it should seem much preferable to have put them on board the man of war, as was proposed: nor does there appear any good reason, why captain Kennedy refused to take them. It is difficult, at this distance, to judge with the same propriety of the conduct, to be held on occasions of such difficulty and importance, as on the spot. Had the personal safety of those in the fort alone been considered, I am persuaded, there would not have been a moment's hesitation about the defence of it, against any attack that might rashly have been attempted: nor can his Majesty suppose

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any want of resolution for his service, in those who have, in their different stations, given so many proofs of their regard to it. It should otherwise seem, that the reality of the mobs being armed and prepared for an actual attack, should have been well ascertained before the papers were given up.

The step you have thought fit to take, in drawing together such forces as their situation allowed, was certainly prudent, and could not be too soon determined, on any positive grounds, to suspect an insurrection; and especially in regard to the securing his Majesty's stores, a circumstance which will still demand your greatest attention; and particularly those arms, which may be seized by the mob for their own mutinous purposes.

Your situation is certainly delicate and difficult; it requires both prudence and firmness in the conduct of all employed in his Majesty's service there; especially, considering what you say of the difficulty, or rather impossibility, of drawing any considerable number of men together, and of the impracticability of attempting any thing by force, in the present disposition of the people, without a respectable body of troops.

You seem to think there are still hopes, that as the spirits of those unhappy people have time to cool, there will be more submission shewn: you will not fail, I am persuaded, in your station, to avail yourself of every favourable symptom for the improvement of such favourable dispositions, any more than to exert yourself where the necessity of the case may require, in support of the honour of government, and for suppressing any riotous or rebellious resistance offered to the laws, or those magistrates who have the execution of them.

I hope my former letters are come safe, as they will have conveyed to you his Majesty's sentiments and commands for your conduct, on the first notice of these disturbances.

LETTER from Mr. Secretary CONWAY, to Lieutenant Governor COLDEN.

December 15, 1765.

Sir; I have received your letter of the 5th of November by major James, and that of the 9th of the same month by the pacquet, with the minutes of the council of New York, from the 31st of October to the 6th of November, &c. From your last letter, I have hopes that time will produce a recollection, which may lead these unhappy people back to a sense of their duty; and that, in the mean time, every proper and practicable measure will be taken to awe that licentious spirit, which has hurried them to those acts of outrage and violence, equally dangerous to the sober and well-disposed part of the people, the ease and quiet of the city, and subversive of all order and authority among them.

Sir Henry Moore will certainly be arrived before this reaches you; it is expected, therefore, Sir, from your knowledge of the country and people, that you should inform the new governor of every thing necessary for his knowledge, as well respecting the state of things, as the characters and dispositions of men in that country. He will see that, by his instructions, he is empowered to suspend members of the council, and officers of the law, who shall appear to desire it; being, in that case, only obliged to send home immediately the reasons and causes of such suspension. It is not improbable, that such times as these may require the exercise of that power: as it is not doubted the governor will use it with discretion, so it is expected he should not want firmness to use it boldly, whenever it may seem useful to the King's service and the public peace.

RESOLUTIONS of the House of Burgesses in Virginia, in consequence of a motion made (May 29, 1765) to take into consideration the late Act for levying a Duty upon Stamps.

Resolved, 1. That the first adventurers and settlers of his Majesty's colony and dominion of Virginia brought with them, and transmitted to their posterity, and all other his Majesty's subjects since inhabiting in this his Majesty's said colony, all the liberties, privileges, franchises and immunities, that have at any time been held and enjoyed, and possessed by the people of Great Britain.

2. That, by two royal charters granted by king James I, the colonies aforesaid are declared entitled to all liberties, privileges, and immunities, of denizens and natural subjects, to all intents and purposes, as if they had been abiding and born within the realm of England.

3. That the taxation of the people, by themselves, or by persons chosen by themselves to represent them, who can only know what taxes the people are able to

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bear, or the easiest method of raising them, and must themselves be affected by every tax laid on the people, is the only security against a burthensome taxation, and the distinguishing characteristic of British freedom, without which the antient constitution cannot exist.

4. That his Majesty's liege people of this his most antient and loyal colony have, without interruption, enjoyed the inestimable right of being governed by such laws, respecting their internal polity and taxation, as are derived from their own consent, with the approbation of their sovereign, or his substitutes, and that the same hath been constantly recognized by the king and people of Great Britain.

REPRESENTATION of the Lords Commissioners for Trade and Plantations, touching the Proceedings and Resolutions of the House of Representatives of Massachuset's Bay, with respect to the Act for levying a Duty upon Stamps in America, and to other Acts of the parliament of Great Britain.

To the King's most excellent Majesty.

May it please your Majesty,

The House of Representatives of your Majesty's province of Massachuset's Bay having, last year, printed and published, in the journals of their proceedings, a letter from a committee of that house to their agent here; in which letter the acts and resolutions of the parliament of Great Britain were treated with the most indecent disrespect, and principles tending to a denial of the right of parliament to levy taxes upon your Majesty's subjects in the colonies, were openly avowed; our predecessors in office thought it their duty to transmit this transaction to your Majesty's consideration, to the end that such directions might be given, as the nature and importance of the matter should appear to require.

Since this, and since the passing the act of parliament for levying a stamp duty in America, the grounds of which act gave rise to the reflections contained in the above-mentioned letter, the same spirit that dictated the sentiments it expresses, has appeared throughout the whole proceedings of the said house of representatives.

Upon the election of counsellors, who, by the constitution of this colony, are annually chosen by the house of representatives, the strongest endeavours were used to preclude your Majesty's secretary of state, who has always been a member of the council, from his seat at that board; and this, as your Majesty's governor represents, merely on account of his having received an appointment (unsolicited) to be a distributor of the stamps: and the motion made in that house, to discontinue the annual salary allowed for the support of your Majesty's governor, upon which proceeding we have this day made a separate representation to your Majesty, seems to have arisen from the same motives.

These, however, being only attempts of individuals in the community, would not either have required or deserved your Majesty's attention, in the light in which we view them; but it further appears, from the journals of the house of representatives in their last session, that this assembly, having thought fit to make the propriety and expediency of the Stamp Act, and of other acts of parliament, a subject of open question and discussion, came to several resolutions and proceedings thereupon, which they kept secret till the last day of their session, when they published them in their printed journals.—[Then follow the resolutions—Then the board of trade proceeds thus:] The object of the resolutions and proceedings of the house of representatives of Massachuset's bay, is to recommend to, and induce, the rest of your Majesty's colonies in America, to join in a general congress of committees from the several assemblies, independent of the other branches of the legislature, and without any previous application to your Majesty, to consider and deliberate upon the acts of the parliament of this kingdom. As this appears to us to be the first instance of a general congress, appointed by the assemblies of the colonies without the authority of the crown; a measure which we conceive of dangerous tendency in itself, and more especially so, when taken for the purposes expressed in the above-mentioned resolution, and connected with the spirit that has appeared throughout the whole conduct of this particular assembly: we therefore think it our indispensible duty to submit this matter to your Majesty's consideration, for such directions as your Majesty, with the advice of your council, may think proper and expedient to give thereupon.

All which is most humbly submitted, &c.

Whitehall, Oct. 1, 1765.

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REPRESENTATION from the Board of Trade, relative to the outrageous behaviour of the people at the town of Boston, in opposition to the Stamp-duty Act. Dated Oct. 10, 1765.

To the King's most excellent Majesty.

May it please your Majesty,

Since our humble Representation to your Majesty of the first instant, in consequence of some alarming proceedings of the house of representatives, in the province of Massachuset's bay, we have received letters from ———*, giving an account of a riot of a most dangerous tendency, which had arisen in the town of Boston, and which, directing its fury against the houses and persons of the lieutenant-governor, and other principal officers of government, continued with repeated acts of extraordinary violence, from the 15th of August to the 26th of the same month; at which period the tumult seemed suspended, rather than allayed.

In whatever light these disturbances may be viewed, whether in respect of the avowed object, which the perpetrators and abettors of them declare to be a general resolution, to oppose and prevent the execution of an act of the parliament of Great-Britain, or in respect of the state of government and magistracy there, which —— represents to be utterly incapable of resisting or suppressing these tumults and disorders, they seem to us of such high importance, that we lose no time in laying the letters and papers relating thereunto before your Majesty, that your Majesty may direct such measures to be pursued, as your Majesty, with the advice of your council, shall think most prudent and effectual. Which is most humbly submitted, &c.

Extract of a LETTER from ——, to Mr. Secretary CONWAY.

New-York, Sept. 23, 1765.

The resolves of the assembly of Virginia, which you will have seen, gave the signal for a general out-cry over the continent; and though I do not find, that the assembly of any other province has yet come to resolutions of the same tendency, they have been applauded as the protectors and assertors of American liberty; and all persons excited and encouraged by writings in the public papers, and speeches, without any reserve, to oppose the execution of the act: the general scheme concerted throughout seems to have been, first, by menace or force, to oblige the stamp-officers to resign their employments, in which they have generally succeeded; and next, to destroy the stampt papers upon their arrival; that, having no stamps, necessity might be an excuse for the dispatch of business without them; and that, before they could be replaced, the clamour and outcry of the people, with addresses and remonstrances from the assemblies, might procure a repeal of the act. The populace of Boston took the lead in the riots, and by an assault upon the house of the stamp officer, forced him to a resignation. The little turbulent colony of Rhode-Island raised their mob likewise; who were not content only to force a promise from the person appointed to distribute the stamps, that he would not act in that employment, but also assaulted and destroyed the houses and furniture of Mess. Howard and Moffatt, and obliged them to fly for safety on board a ship of war: the first, a lawyer of reputation, had wrote in defence of the rights of the parliament of Great-Britain to lay taxes upon the colonies; the other a physician, who had supported the same in his conversations. The neighbouring provinces seemed inclined to follow these examples, but were prevented by the almost general resignation of the stamp officers. The Boston mob, raised first by the instigation of many of the principal inhabitants, allured by plunder, rose shortly after of their own accord; attacked, robbed, and destroyed several houses, and amongst others, that of the lieutenant-governor, and only spared the governor's, because his effects had been removed. People then began to be terrified at the spirit they had raised; to perceive that popular fury was not to be guided, and each individual feared he might be the next victim to their rapacity. The same fears spread through the other provinces, and there has been as much pains taken since, to prevent insurrections of the people, as before to excite them.

* Some blanks have been left to prevent an improper discovery of persons. It is hoped this will be excused when the reason is given in the words of one of the writers of intelligence to the ministry, upon this subject. He says, "I shall communicate things as they happen, although at the risk of my life; for the party, by their tools, frequently give out, that if they knew the man that would so far assist Great Britain, as to inform against any man, in this or any other province, he should not live many hours."

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Extract of a State of the Province, contained in a LETTER to Mr. CONWAY, dated, Dec. 13, 1765.

The gentlemen of the law make the second class, in which are properly included both the bench and the bar; both of them act on the same principles, and are of the most distinguished families in the policy of the province.

The merchants make the third class; many of them have suddenly rose from the lowest rank of the people to considerable fortunes, and chiefly in the last war, by illicit trade; they abhor every limitation of trade and duties, and therefore gladly go into every measure, whereby they hope to have trade free.

The gentlemen of the law, both the judges, and the principal practitioners at the bar, are either owners, or strongly connected *in family* interest with the proprietors *in general*. The gentlemen of the law, some years since, entered into an association, with intention among other things, to assume the direction of government upon them, by the influence they had in the assembly; gained by their family connection, and by the profession of the law, whereby they are unavoidably in the secrets of many families. Many court their friendship, and all dread their hatred; by these means, though few of them are members, they rule the house of the assembly, in all matters of importance; the greatest number of the assembly being common farmers, who know little of men and things, and are easily deluded and seduced.

By this association, united in interest and family connections with the proprietors of the great tracks, a domination of lawyers was formed in this province, which, for some years past, has been too strong for the executive powers of government. Besides what is before related, it is necessary to observe, that, for several years past, the assembly grants the support of power only from year to year; they increase and lessen the salaries of all the officers at their pleasure; and the bill passed in the House of Assembly [the author means the House of Commons] in the last sessions of parliament, laying internal taxes on the colony, and paying all the officers of government, as it is suggested they may intend to do, will destroy the great and undue influence, which the Assembly has gained over the administration, to the great prejudice of his Majesty's prerogative in the colonies; and it is chiefly for this reason that the popular leaders so violently oppose the act for laying a stamp duty.

Extract of a LETTER to the Lords of Trade, dated August 15, 1765.

Yesterday morning, at break of day, was discovered hanging upon a tree, in a street in the town, an effigy, with inscriptions, shewing that it was intended to represent Mr. Oliver the secretary, who had lately accepted the office of stamp distributor. Some of the neighbours offered to take it down, but they were given to know, that would not be permitted. Many gentlemen, especially some of the council, treated it as a boyish sport, that did not deserve the notice of the governor and council. However, the lieutenant-governor, as chief justice, directed the sheriff to order his officers to take down the effigy; and a council was appointed to meet in the afternoon, to consider what should be done, if the sheriff's officers were obstructed in removing the effigy.

Before the council met, the sheriff reported, that his officers had endeavoured to take down the effigy, but could not do it without imminent danger of their lives. The council met, represented this transaction as the beginning of much greater commotions, and desired their advice what should be done upon this occasion. A majority of the council spoke in form against doing any thing; but upon very different principles: some said it was a trifling business, which, if let alone, would subside of itself; but if taken notice of, would become a serious affair. Others said, it was a serious affair already: that it was a preconcerted business, in which the greatest part of the town was engaged: that there was no force to oppose it, and making an opposition to it, without a power to support the opposition, would only enflame the people, and be a means of extending the mischief to persons not at present the objects of it. The sheriff was ordered to assemble the peace-officers, and preserve the peace; a matter of form, rather than real significance.

It now grew dark; when the mob, which had been gathering all the afternoon, came down to the town-house, bringing the effigy with them; and, knowing that they were sitting in the council-chamber, they gave three huzzas, by way of defiance, and passed on. From thence they went to a new building, lately erected by Mr.

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Oliver to let out for shops, and not quite finished: this they called the stamp-office, and pulled it down to the ground in five minutes. From thence they went to Mr. Oliver's house, before which they beheaded the effigy, and broke all the windows next the street. Then they carried the effigy to Fort Hill, near Mr. Oliver's house, where they burnt the effigy in a bonfire, made of the timber they had pulled down from the building. Mr. Oliver had removed his family from his house, and remained himself with a few friends, when the mob returned to attack the house.

Mr. Oliver was prevailed upon to retire, and his friends kept possession of the house: the mob finding the door barricaded, broke down the whole fence of the garden towards Fort Hill; and coming on, beat all the doors and windows of the garden front, and entered the house, the gentlemen there retiring. As soon as they had got possession, they searched about for Mr. Oliver, declaring they would kill him. Finding that he had left the house, a party set out to search two neighbouring houses, in one of which Mr. Oliver was; but, happily, they were diverted from this pursuit by a gentleman telling them, that Mr. Oliver was gone with the governor to the castle; otherwise he would certainly have been murdered. After eleven o'clock, the mob seeming to grow quiet, the lieutenant-governor, chief justice, and the sheriff, ventured to go to Mr. Oliver's house, to endeavour to persuade them to disperse: as soon as they began to speak, a ringleader cried out, "The governor and the sheriff! to your arms, my boys!" presently after a volley of stones followed, and the two gentlemen narrowly escaped, through favour of the night, not without some bruises. I should have mentioned before, that a written order was sent to the colonel of the regiment of militia, to beat an alarm: he answered, that it would signify nothing, for as soon as the drum was heard, the drummer would be knocked down, and the drum broke: he added, that probably all the drummers of the regiment were in the mob. Nothing more being to be done, the mob were left to disperse at their own time, which they did about twelve o'clock. Whilst I am writing, I saw a bonfire burning on Fort Hill, by which I understand the mob is up, and probably doing mischief; I shall therefore discontinue this letter till I can receive information of what is done this night.

August 16.

In the afternoon of yesterday, several gentlemen applied to Mr. Oliver, to advise him to make a public declaration, that he would resign the office, and never act in it; without which they said his house would be immediately destroyed, and his life in continual danger; upon which he was obliged to authorize some gentlemen to declare in public, that he would immediately apply for leave to resign, and would not act in the office (as indeed it was impossible for him to do) until he received further orders.

August 22.

I come now to pursue the subject of my letter, dated the 15th and 16th instant.—It is difficult to conceive the fury which at present possesses the people of Boston, of all orders and degrees of men: if a gentleman, in common conversation, signifies his disapprobation of this insurrection, his person is immediately in danger. A gentleman having said, that, notwithstanding what was passed, he would accept of the stamp-office, a day was fixed for pulling down his house; it was prevented not without difficulty. Another gentleman having mentioned his expectation, that some regular forces would be sent into town, was obliged to make intercession to prevent his being mobbed. A minister of the Church of England having, in his sermon, obliquely condemned these proceedings, has been threatened with the resentment of the people. On the other hand, a minister of one of the principal meetings told Mr. Oliver, that though he was sorry this mischief had fell upon him, yet it was a very proper and necessary proceeding, and he quite approved of it. Another congregational minister, well known by his late polemical writings, has, as I have been told by several persons, justified this proceeding in his sermon, and prayed for its success: but there are congregational ministers, I doubt not, (and I know some) who condemn it, but they dare not speak out, which is the case of every one who does not approve of it. I would not willingly aggravate matters, but I really fear much worse to come than is passed: the sheriff of this county, a prudent and resolute man, has told me, that he was applied to by some friends, who would have persuaded him to resign his office, for it would soon become dangerous for a civil officer to appear; and that both his deputies at Boston had ap-

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plied to resign. The 1st of November is appointed for a grand jubilee; when, I suppose, there will be much mischief done, and vengeance wrecked upon those who remain friends to government.

August 31, 1765.

It is with the utmost concern that I am obliged to continue the subject of my last letters of the 15th and 16th, and of the 22nd instant, the disorders of the town having been carried to much greater lengths than what I have informed your lordships of.

After the demolition of Mr. Oliver's house was found so practicable and easy, and that the government was obliged to look on, without being able to take any one step to prevent it, and the principal people of the town publicly avowed and justified the act; the mob, both great and small, became highly elated, and all kinds of ill-humours were set on foot; every thing that, for years past, had been the cause of any unpopular discontent, was revived; and private resentments against persons in office worked themselves in, and endeavoured to exert themselves under the mask of the public cause.

On Monday, August 26, there was some small rumour, that mischief would be done that night; but it was in general disregarded. Towards evening, some boys began to light a bonfire before the town-house, which is an usual signal for a mob Before it was quite dark, a great company of people gathered together, crying 'Liberty and Property;' which is their usual notice of their intention to plunder and pull down a house. They went first to Mr. Paxton's house, who is marshal of the court of admiralty, and surveyor of the port; and finding before it the owner of the house (Mr. Paxton being only a tenant), he assured them, that Mr. Paxton had quitted the house with his best effects, and that the house was his; that he had never injured them, and, finally, invited them to go to the tavern and drink a barrel of punch: the offer was accepted, and so that house was saved. As soon as they had drank the punch, they went to the house of Mr. Storey, register-deputy of the admiralty, broke into it, and broke it all to pieces, and took out all the books and papers, among which were all the records of the court of admiralty, and carried them to the bonfire, and there burnt them: they also looked about for him with an intention to kill him. From thence they went to Mr. Hollowell's, comptroller of the customs, broke into his house, and destroyed and carried off every thing of value, with about thirty pounds, sterling, in cash. This house was lately built by himself, and fitted and furnished with great elegance. But the grand mischief of all was to come.

The lieutenant-governor had been apprized, that there was an evil spirit gone forth against him; but, being conscious that he had not in the least deserved to be made a party, in regard to the Stamp Act or the Custom-house, he rested in full security that the mob would not attack him; and he was at supper with his family when he received advice that the mob was coming to him. He immediately sent away his children, and determined to stay in the house himself: but, happily, his eldest daughter returned, and declared she would not stir from the house unless he went with her; by which means she got him away, which was undoubtedly the occasion of saving his life. For, as soon as the mob had got into the house, with a most irresistible fury, they immediately looked about for him, to murder him, and even made diligent enquiry whither he was gone. They went to work with a rage scarce to be exemplified by the most savage people. Every thing moveable was destroyed in the most minute manner, except such things of value as were worth carrying off; among which were near 1,000*l.* sterling in specie, besides a great quantity of family plate, &c. But the loss to be most lamented is, that there was in one room, kept for that purpose, a large and valuable collection of manuscripts and original papers, which he had been gathering all his life time, and to which all persons, who had been in possession of valuable papers of a public kind, had been contributing, as to a public museum. As these related to the history and policy of the country, from the time of its settlement to the present time, and was the only collection of its kind, the loss to the public is great and irretrievable, as it is to himself, the loss of the papers of a family, which had made a figure in this province for a hundred and thirty years. As for the house, which, from its structure and inside finishing, seemed to be from a design of Inigo Jones, or his successor, it appears, that they were a long while resolved to level it to the ground: they worked three hours at the cupola before they could get it down, and

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they uncovered part of the roof; but I suppose, that the thickness of the walls, which were of very fine brick-work, adorned with Ionic pilasters worked into the wall, prevented their completing their purpose, though they worked at it till day light. The next day, the streets were found scattered with money, plate, gold rings, &c., which had been dropt in carrying off. The whole loss in this house is reckoned at 3,000*l.* sterling. It was now becoming a war of plunder, of general levelling, and taking away the distinction of rich and poor: so that those gentlemen, who had promoted and approved the cruel treatment of Mr. Oliver, became now as fearful for themselves as the most loyal person in the town could be. When first the town took this new turn, I was in hopes that they would have disavowed all the riotous proceedings; that of the first night, as well as the last. But it is no such thing; great pains are taken to separate the two riots: what was done against Mr. Oliver is still approved of, as a necessary declaration of their resolution not to submit to the Stamp Act; and even the cruel treatment of him and his family is justified by its consequences, the frightening him into a resignation: and it has been publicly hinted, that if a line is not drawn between the first riot and the last, the civil power will not be supported by the principal people of the town, as it is assured it shall be now. So that the present authority of the government is only exercised upon condition, and with prescribed limitations.

Philadelphia. In Assembly, Sept. 21, 1765, A. M.

The house taking into consideration, that an act of parliament has lately passed in England, for imposing certain stamp duties, and other duties, on his Majesty's subjects in America, whereby they conceive some of their most essential and valuable rights as British subjects to be deeply affected, think it a duty they owe to themselves and their posterity, to come to the following resolutions, viz.

Resolved, *nem. con.* That the assemblies of this province have from time to time, whenever requisitions have been made by his Majesty for carrying on military operations for the defence of America, most cheerfully and liberally contributed their full proportion of men and money for those services.

Resolved, *nem. con.* That whenever his Majesty's service shall, for the future, require the aids of the inhabitants of this province, and they shall be called upon for that purpose in a constitutional way, it will be their indispensible duty most cheerfully and liberally to grant to his Majesty their proportion of men and money, for the defence, security and other public services of the British American colonies.

Resolved, *nem. con.* That the inhabitants of this province are entitled to all the liberties, rights, and privileges, of his Majesty's subjects in Great Britain or elsewhere; and that the constitution of government in this province is founded on the natural rights of mankind, and the noble principles of English liberty, and therefore is, or ought to be, perfectly free.

Resolved, *nem. con.* That it is the interest, birthright, and indubitable privilege of every British subject, to be taxed only by his own consent, or that of his legal representatives, in conjunction with his Majesty, or his substitutes.

Resolved, *nem. con.* That the only legal representatives of the inhabitants of this province are the persons they annually elect, to serve as members of assembly.

Resolved therefore, *nem. con.* That the taxation of the people of this province, by any other persons whatsoever than such their representatives in assembly, is unconstitutional, and subversive of their most valuable rights.

Resolved, *nem. con.* That the laying taxes upon the inhabitants of this province in any other manner, being manifestly subversive of public liberty, must, of necessary consequence, be utterly destructive of public happiness.

Resolved, *nem. con.* That the resting an authority in the courts of admiralty to decide in suits relating to the stamp duties, and other matters foreign to their proper jurisdiction, is highly dangerous to the liberties of his Majesty's American subjects, contrary to Magna Charta, the great charter and fountain of English liberty, and destructive of one of their most darling and acknowledged rights, that of trials by juries.

Resolved, *nem. con.* That it is the opinion of this house, that the restraints, imposed by several late acts of parliament, on the trade of this province, at a time when the people labour under an enormous debt, must, of necessity, be attended with the most fatal consequences; not only to

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this province, but to the trade of our mother country.

Resolved, *nem. con.* That this house think it their duty thus firmly to assert, with modesty and decency, their inherent rights, that their posterity may learn and know that it was not with their consent and acquiescence, that any taxes should be levied on them by any person, but their own representatives; and are desirous, that these their resolves should remain on their minutes, as a testimony of the zeal and ardent desire of the present house of assembly, to preserve their inestimable rights, which, as Englishmen, they have possessed ever since this province was settled, and to transmit them to their latest posterity.

Petitions against the American Stamp Act.] January 17. A Petition of the merchants of London, trading to North America, was presented to the House, and read; setting forth;

"That the petitioners have been long concerned in carrying on the trade between this country and the British colonies on the continent of North America; and that they have annually exported very large quantities of British manufactures, consisting of woollen goods of all kinds, cottons, linens, hardware, shoes, houshold furniture, and almost without exception of every other species of goods manufactured in these kingdoms, besides other articles imported from abroad, chiefly purchased with our manufactures and with the produce of our colonies; by all which, many thousand manufacturers, seamen, and labourers, have been employed, to the very great and increasing benefit of this nation; and that, in return for these exports, the petitioners have received from the colonies, rice, indico, tobacco, naval stores, oil, whale fins, furs, and lately pot-ash, with other commodities, besides remittances by bills of exchange and bullion, obtained by the colonists in payment for articles of their produce, not required for the British market, and therefore exported to other places; and that, from the nature of this trade, consisting of British manufactures exported, and of the import of raw materials from America, many of them used in our manufactures, and all of them tending to lessen our dependence on neighbouring states, it must be deemed of the highest importance in the commercial system of this nation; and that this commerce, so beneficial to the state, and so necessary for the support of multitudes, now lies under such difficulties and discouragement, that nothing less than its utter ruin is apprehended, without the immediate interposition of parliament; and that, in consequence of the trade between the colonies and the mother country, as established and as permitted for many years, and of the experience which the petitioners have had of the readiness of the Americans to make their just remittances to the utmost of their real ability, they have been induced to make and venture such large exportations of British manufactures, as to leave the colonies indebted to the merchants of Great Britain in the sum of several millions sterling; and that at this time the colonists, when pressed for payment, appeal to past experience, in proof of their willingness; but declare it is not in their power, at present, to make good their engagements, alledging, that the taxes and restrictions laid upon them, and the extension of the jurisdiction of vice admiralty courts established by some late acts of parliament, particularly by an act passed in the fourth year of his present Majesty, for granting certain duties in the British colonies and plantations in America, and by an act passed in the fifth year of his present Majesty, for granting and applying certain stamp duties, and other duties, in the British colonies and plantations in America, with several regulations and restraints, which, if founded in acts of parliament for defined purposes, are represented to have been extended in such a manner as to disturb legal commerce and harass the fair trader, have so far interrupted the usual and former most fruitful branches of their commerce, restrained the sale of their produce, thrown the state of the several provinces into confusion, and brought on so great a number of actual bankruptcies, that the former opportunities and means of remittances and payments are utterly lost and taken from them; and that the petitioners are, by these unhappy events, reduced to the necessity of applying to the House, in order to secure themselves and their families from impending ruin; to prevent a multitude of manufacturers from becoming a burthen to the community, or else seeking their bread in other countries, to the irretrievable loss of this kingdom; and to preserve the strength of this nation entire, its commerce flourishing, the revenues increasing, our navigation, the bul-

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wark of the kingdom, in a state of growth and extension, and the colonies, from inclination, duty, and interest, firmly attached to the mother country; and therefore praying the consideration of the premises, and entreating such relief, as to the House shall seem expedient."

This Petition was referred to a Committee of the whole House, as were also the following petitions, viz. Of the master, wardens, and commonalty of the society of merchants venturers of the city of Bristol, under their common seal; of the merchants, tradesmen and manufacturers of the same city; of the merchants of Liverpool, trading to and from America and the coast of Africa; of the merchants, tradesmen, and manufacturers of the town and parish of Halifax; of the merchants and inhabitants of the borough of Leeds, trading to the several colonies of North America, and of the manufacturers of broad woollen cloth, and sundry other assortments of woollen goods, manufactured for supplying the North American markets; of the merchants of Lancaster trading to and from North America; of the merchants, manufacturers, and traders of the town of Manchester, and neighbourhood thereof; of the manufacturers of the town and county of Leicester; and of the clothiers and manufacturers of superfine broad cloth, in the town of Bradford in Wiltshire; all complaining of a great decay in the trade to the North American colonies, owing to the late obstructions and embarrassments laid thereon, and praying relief.

And afterwards there were presented to the House and read, and referred to the same Committee, the following Petitions, viz. of the principal inhabitants of the town of Frome; of the merchants, factors, and manufacturers of Birmingham; of the mayor, bailiffs, and commonalty, of the city of Coventry, and the principal tradesmen and manufacturers of silk ribbands and worsted goods, in and near the said city, whose common seal and names are thereunto respectively affixed, in behalf of themselves and others concerned in the said manufactures; of the merchants and dealers in the silk, mohair, and button manufactures, residing in the town of Macclesfield; of the merchants, traders, and manufacturers of Wolverhampton; of the merchants, traders, and manufacturers of Stourbridge; of the merchants and manufacturers of Dudley; of the tradesmen, manufacturers, &c. of the borough of Minehead; of the mayor, aldermen, burgesses, principal inhabitants, and traders, in the woollen manufactory in Taunton; of the master, wardens, and commonalty, of blanket weavers in Witney; of the mayor, recorder, aldermen, sheriff, and commonalty, of the town and county of the town of Newcastle upon Tyne; of the merchants of Glasgow trading to North America; of the bailiff and burgesses of Chippenham; and of the principal tradesmen, manufacturers, and inhabitants, of the town of Nottingham; all containing much the same complaint as in the former petitions, and concluding with the same prayer.

Jan. 28. The House resolved itself into a committee of the whole House, to consider of the petitions and papers; and on that day, the 29th, and 31st of January, and on the 3rd, 5th, 7th, 10th, 11th, 12th, 13th, 17th, 18th, and 21st, of February, on some of which days the committee continued sitting till after one o'clock in the morning. During this time great numbers of other petitions, letters and papers were laid before the House: particularly a Petition of Stephen Fuller, esq. agent of the island of Jamaica, setting forth,

"That, in the year 1760, there broke out two rebellions in the said island, which threatened not only the destruction of the inhabitants, but the loss of that valuable colony to Great Britain; and that after the said rebellions, the assembly of the said island thought proper, in order to defray the expence that increased on account thereof, to lay a tax by way of stamps, which tax was laid in the year 1760, and continued till December 1763, when that law was suffered to expire, on account, as the petitioner is informed, and believes, of its being unequal and burdensome, as it certainly was in a high degree; and that the petitioner most humbly conceiving, that the act for imposing certain stamp duties, in the British colonies and plantations in America, will be attended with the same inconveniences, if not greater (on account that the forfeitures and penalties incurred may be sued for and recovered in any court of record, or in any court of admiralty or vice admiralty in the island, at the election of the informer or prosecutor) prayed such relief in the premises, as to the House should seem meet."

There had also on the 21st of January been presented and read, a petition of Edward Montagu, agent for the colony of

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Virginia, and a petition of William Knox, agent for the province of Georgia, representing the inability of these provinces to pay the stamp duty; which three petitions were the only petitions presented this session in the name of the colonies.

The House, in a Committee, not only examined the Petitions and Papers laid before them, but also several persons whom they ordered to attend; and among them was Doctor Benjamin Franklin, whose Examination, being very interesting, is here inserted.

Examination of Dr. Benjamin Franklin.

Q. What is your name, and place of abode?—*A.* Franklin, of Philadelphia.

Do the Americans pay any considerable taxes among themselves? — Certainly many, and very heavy taxes.

What are the present taxes in Pennsylvania, laid by the laws of the colony?—There are taxes on all estates real and personal, a poll-tax, a tax on all offices, professions, trades, and businesses, according to their profits; an excise on all wine, rum, and other spirit; and a duty of ten pounds per head on all negroes imported, with some other duties.

For what purposes are those taxes laid?—For the support of the civil and military establishments of the country, and to discharge the heavy debt contracted in the last war.

How long are those taxes to continue?—Those for discharging the debt are to continue till 1772, and longer, if the debt should not be then all discharged. The others must always continue.

Was it not expected that the debt would have been sooner discharged?—It was, when the peace was made with France and Spain; but a fresh war breaking out with the Indians, a fresh load of debt was incurred, and the taxes, of course, continued longer by a new law.

Are not all the people very able to pay those taxes?—No. The frontier counties, all along the continent, having been frequently ravaged by the enemy, and greatly impoverished, are able to pay very little tax. And therefore, in consideration of their distresses, our late tax laws do expressly favour those counties, excusing the sufferers; and I suppose the same is done in other governments.

Are not you concerned in the management of the post office in America?—Yes; I am deputy post-master general of North America.

Don't you think the distribution of stamps, by post, to all the inhabitants, very practicable, if there was no opposition?—The posts only go along the sea coasts; they do not, except in a few instances, go back into the country; and if they did, sending for stamps by post would occasion an expence of postage, amounting, in many cases, to much more than that of the stamps themselves.

Are you acquainted with Newfoundland?—I never was there.

Do you know whether there are any post-roads on that island?—I have heard that there are no roads at all; but that the communication between one settlement and another is by sea only.

Can you disperse the stamps by post in Canada?—There is only a post between Montreal and Quebec. The inhabitants live so scattered and remote from each other, in that vast country, that posts cannot be supported among them, and therefore they cannot get stamps per post. The English colonies too, along the frontiers, are very thinly settled.

From the thinness of the back settlements, would not the Stamp Act be extremely inconvenient to the inhabitants if executed?—To be sure it would; as many of the inhabitants could not get stamps when they had occasion for them, without taking long journeys, and spending, perhaps, three or four pounds, that the crown might get sixpence.

Are not the colonies, from their circumstances, very able to pay the stamp duty?—In my opinion, there is not gold and silver enough in the colonies to pay the stamp duty for one year.

Don't you know that the money arising from the stamps was all to be laid out in America?—I know it is appropriated by the act to the American service; but it will be spent in the conquered colonies, where the soldiers are, not in the colonies that pay it.

Is there not a balance of trade due from the colonies where the troops are posted, that will bring back the money to the old colonies?—I think not. I believe very little would come back. I know of no trade likely to bring it back. I think it would come from the colonies where it was spent directly to England; for I have always observed, that in every colony the more plenty of means of remittance to England, the more goods are sent for, and the more trade with England carried on.

What number of white inhabitants do

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you think there are in Pennsylvania?—I suppose there may be about 160,000.

What number of them are Quakers?—Perhaps a third.

What number of Germans?—Perhaps another third; but I cannot speak with certainty.

Have any number of the Germans seen service, as soldiers, in Europe?—Yes, many of them, both in Europe and America.

Are they as much dissatisfied with the stamp duty as the English?—Yes, and more; and with reason, as their stamps are, in many cases, to be double.

How many white men do you suppose there are in North America?—About 300,000, from 16 to 60 years of age.

What may be the amount of one year's imports into Pennsylvania from Britain?—I have been informed that our merchants compute the imports from Britain to be above 500,000*l.*

What may be the amount of the produce of your province exported to Britain?—It must be small, as we produce little that is wanted in Britain. I suppose it cannot exceed 40,000*l.*

How then do you pay the balance?—The balance is paid by our produce carried to the West Indies, and sold in our own islands, or to the French, Spaniards, Danes, and Dutch; by the same carried to other colonies in North America, as to New England, Nova Scotia, Newfoundland, Carolina, and Georgia; by the same carried to different parts of Europe, as Spain, Portugal and Italy. In all which places we receive either money, bills of exchange, or commodities that suit for remittance to Britain; which, together with all the profits on the industry of our merchants and mariners, arising in those circuitous voyages, and the freights made by their ships, centre finally in Britain to discharge the balance, and pay for British manufactures continually used in the province, or sold to foreigners by our traders.

Have you heard of any difficulties lately laid on the Spanish trade?—Yes, I have heard that it has been greatly obstructed by some new regulations, and by the English men of war and cutters stationed all along the coast in America.

Do you think it right, that America should be protected by this country, and pay no part of the expence?—That is not the case. The colonies raised, clothed and paid, during the last war, near 25,000 men, and spent many millions.

Were you not reimbursed by parliament?—We were only reimbursed what, in your opinion, we had advanced beyond our proportion, or beyond what might reasonably be expected from us; and it was a very small part of what we spent. Pennsylvania, in particular, disbursed about 500,000*l.*, and the reimbursements, in the whole, did not exceed 60,000*l.*

You have said that you pay heavy taxes in Pennsylvania; what do they amount to in the pound?—The tax on all estates, real and personal, is eighteen pence in the pound, fully rated; and the tax on the profits of trades and professions, with other taxes, do, I suppose, make full half a crown in the pound.

Do you know any thing of the rate of exchange in Pennsylvania, and whether it has fallen lately?—It is commonly from 170 to 175. I have heard that it has fallen lately from 175 to 162 and a half, owing, I suppose, to their lessening their orders for goods; and when their debts to this country are paid, I think the exchange will probably be at par.

Do not you think the people of America would submit to pay the stamp duty, if it was moderated?—No, never, unless compelled by force of arms.

Are not the taxes in Pennsylvania laid on unequally, in order to burden the English trade, particularly the tax on professions and business?—It is not more burdensome in proportion than the tax on lands. It is intended, and supposed to take an equal proportion of profits.

How is the assembly composed? Of what kinds of people are the members, landholders or traders?—It is composed of landholders, merchants, and artificers.

Are not the majority landholders?—I believe they are.

Do not they, as much as possible, shift the tax off from the land, to ease that, and lay the burthen heavier on trade?—I have never understood it so. I never heard such a thing suggested. And indeed an attempt of that kind could answer no purpose. The merchant or trader is always skilled in figures, and ready with his pen and ink. If unequal burdens are laid on his trade, he puts an additional price on his goods; and the consumers, who are chiefly landholders, finally pay the greatest part, if not the whole.

What was the temper of America towards Great Britain before the year 1763?—The best in the world. They submitted willingly to the government of the crown, and paid, in

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all their courts, obedience to acts of parliament. Numerous as the people are in the several old provinces, they cost you nothing in forts, citadels, garrisons or armies, to keep them in subjection. They were governed by this country at the expence only of a little pen, ink, and paper. They were led by a thread. They had not only a respect, but an affection for Great Britain, for its laws, its customs and manners, and even a fondness for its fashions, that greatly increased the commerce. Natives of Britain were always treated with particular regard; to be an Old-England man was, of itself, a character of some respect, and gave a kind of rank among us.

And what is their temper now?—O, very much altered.

Did you ever hear the authority of parliament to make laws for America questioned till lately?—The authority of parliament was allowed to be valid in all laws, except such as should lay internal taxes. It was never disputed in laying duties to regulate commerce.

In what proportion hath population increased in America?—I think the inhabitants of all the provinces together, taken at a medium, double in about 25 years. But their demand for British manufactures increases much faster, as the consumption is not merely in proportion to their numbers, but grows with the growing abilities of the same numbers to pay for them. In 1723, the whole importation from Britain to Pennsylvania, was but about 15,000*l.* sterling; it is now near half a million.

In what light did the people of America use to consider the parliament of Great Britain?—They considered the parliament as the great bulwark and security of their liberties and privileges, and always spoke of it with the utmost respect and veneration. Arbitrary ministers, they thought, might possibly, at times, attempt to oppress them; but they relied on it, that the parliament, on application, would always give redress. They remembered, with gratitude, a strong instance of this, when a bill was brought into parliament, with a clause to make royal instructions laws in the colonies, which the House of Commons would not pass, and it was thrown out.

And have they not still the same respect for parliament?—No; it is greatly lessened.

To what causes is that owing?—To a concurrence of causes; the restraints lately laid on their trade, by which the bringing of foreign gold and silver into the colonies was prevented; the prohibition of making paper money among themselves; and then demand a new and heavy tax by stamps; taking away at the same time, trials by juries, and refusing to receive and hear their humble petitions.

Don't you think they would submit to the Stamp Act, if it was modified, the obnoxious parts taken out, and the duty reduced to some particulars, of small moment?—No; they will never submit to it.

What do you think is the reason that the people of America increase faster than in England?—Because they marry younger, and more generally.

Why so?—Because any young couple that are industrious, may easily obtain land of their own, on which they can raise a family.

Are not the lower rank of people more at their ease in America than in England?—They may be so, if they are sober and diligent, as they are better paid for their labour.

What is your opinion of a future tax, imposed on the same principle with that of the Stamp Act, how would the Americans receive it?—Just as they do this. They would not pay it.

Have not you heard of the resolution of this House, and of the House of Lords, asserting the right of parliament relating to America, including a power to tax the people there?—Yes, I have heard of such resolutions.

What will be the opinion of the Americans on those resolutions?—They will think them unconstitutional and unjust.

Was it an opinion in America before 1763, that the parliament had no right to lay taxes and duties there?—I never heard any objection to the right of laying duties to regulate commerce; but a right to lay internal taxes was never supposed to be in parliament, as we are not represented there.

On what do you found your opinion, that the people in America made any such distinction?—I know that whenever the subject has occurred in conversation where I have been present, it has appeared to be the opinion of every one, that we could not be taxed in a parliament where we were not represented. But the payment of duties laid by act of parliament, as regulations of commerce, was never disputed.

But can you name any act of assembly, or public act of any of your governments, that made such distinction?—I do not know that there was any; I think there was

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never an occasion to make any such act, till now that you have attempted to tax us; that has occasioned resolutions of assembly, declaring the distinction, in which I think every assembly on the continent, and every member in every assembly, have been unanimous.

What then could occasion conversations on that subject before that time?—There was, in 1754, a proposition made (I think it came from hence) that in case of a war, which was then apprehended, the governors of the colonies should meet, and order the levying of troops, building of forts, and taking every other necessary measure for the general defence; and should draw on the treasury here, for the sums expended, which were afterwards to be raised in the colonies by a general tax, to be laid on them by act of parliament. This occasioned a good deal of conversation on the subject, and the general opinion was, that the parliament neither would, nor could lay any tax on us, till we were duly represented in parliament, because it was not just, nor agreeable to the nature of an English constitution.

Don't you know there was a time in New York, when it was under consideration to make an application to parliament, to lay taxes on that colony, upon a deficiency arising from the assembly's refusing or neglecting to raise the necessary supplies for the support of the civil government?—I never heard of it.

There was such an application under consideration in New York; and do you apprehend they could suppose the right of parliament to lay a tax in America was only local, and confined to the case of a deficiency in a particular colony, by a refusal of its assembly to raise the necessary supplies?—They could not suppose such a case, as that the assembly would not raise the necessary supplies to support its own government. An assembly that would refuse it, must want common sense, which cannot be supposed. I think there was never any such case at New York, and that it must be a misrepresentation, or the fact must be misunderstood. I know there have been some attempts, by ministerial instructions from hence, to oblige the assemblies to settle permanent salaries on governors, which they wisely refused to do; but I believe no assembly of New York, or any other colony, ever refused duly to support government, by proper allowances, from time to time, to public officers.

But in case a governor, acting by instruction, should call on an assembly to raise the necessary supplies, and the assembly should refuse to do it, do you not think it would then be for the good of the people of the colony, as well as necessary to government, that the parliament should tax them?—I do not think it would be necessary. If an assembly could possibly be so absurd as to refuse raising the supplies requisite for the maintenance of government among them, they could not long remain in such a situation; the disorders and confusion occasioned by it, must soon bring them to reason.

If it should not, ought not the right to be in Great Britain of applying a remedy? A right only to be used in such a case, I should have no objection to, supposing it to be used merely for the good of the people of the colony.

But who is to judge of that, Britain or the colony?—Those that feel can best judge.

You say the colonies have always submitted to external taxes, and object to the right of parliament only in laying internal taxes; now can you shew that there is any kind of difference between the two taxes to the colony on which they may be laid?—I think the difference is very great. An external tax is a duty laid on commodities imported; that duty is added to the first cost, and other charges on the commodity, and when it is offered to sale, makes a part of the price. If the people do not like it at that price, they refuse it; they are not obliged to pay it. But an internal tax is forced from the people without their consent, if not laid by their own representatives. The Stamp Act says, we shall have no commerce, make no exchange of property with each other, neither purchase nor grant, nor recover debts; we shall neither marry nor make our wills, unless we pay such sums, and thus it is intended to extort our money from us, or ruin us by the consequences of refusing to pay it.

But supposing the internal tax or duty to be laid on the necessaries of life imported into your colony, will not that be the same thing in its effects as an internal tax?—I do not know a single article imported into the northern colonies, but what they can either do without or make themselves.

Don't you think cloth from England absolutely necessary to them?—No, by no means absolutely necessary; with in-

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dustry and good management, they may very well supply themselves with all they want.

Will it not take a long time to establish that manufacture among them; and must they not in the mean while suffer greatly?—I think not. They have made a surprising progress already. And I am of opinion, that before their old clothes are worn out, they will have new ones of their own making.

Can they possibly find wool enough in North America?—They have taken steps to increase the wool. They entered into general combination to eat no more lamb, and very few lambs were killed last year. This course persisted in, will soon make a prodigious difference in the quantity of wool. And the establishing of great manufactories, like those in the clothing towns here, is not necessary, as it is where the business is to be carried on for the purposes of trade. The people will all spin and work for themselves, in their own houses.

Can there be wool and manufacture enough in one or two years?—In three years, I think, there may.

Does not the severity of the winter, in the northern colonies, occasion the wool to be of bad quality?—No, the wool is very fine and good.

In the more southern colonies, as in Virginia, don't you know that the wool is coarse, and only a kind of hair?—I don't know it. I never heard it. Yet I have been sometimes in Virginia. I cannot say I ever took particular notice of the wool there, but I believe it is good, though I cannot speak positively of it; but Virginia, and the colonies south of it, have less occasion for wool; their winters are short, and not very severe, and they can very well clothe themselves with linen and cotton of their own raising for the rest of the year.

Are not the people in the more northern colonies obliged to fodder their sheep all the winter?—In some of the most northern colonies they may be obliged to do it some part of the winter.

Considering the resolutions of parliament as to the right, do you think, if the Stamp Act is repealed, that the North Americans will be satisfied?—I believe they will.

Why do you think so?—I think the resolutions of right will give them very little concern, if they are never attempted to be carried into practice. The colonies will probably consider themselves in the same situation, in that respect, with Ireland; they know you claim the same right with regard to Ireland, but you never exercise it. And they may believe you never will exercise it in the colonies, any more than in Ireland, unless on some very extraordinary occasion.

But who are to be the judges of that extraordinary occasion? Is not the parliament?—Though the parliament may judge of the occasion, the people will think it can never exercise such right, till representatives from the colonies are admitted into parliament, and that whenever the occasion arises, representatives will be ordered.

Did you never hear that Maryland, during the last war, had refused to furnish a quota towards the common defence?—Maryland has been much misrepresented in that matter. Maryland, to my knowledge, never refused to contribute, or grant aids to the crown. The assemblies every year, during the war, voted considerable sums, and formed bills to raise them. The bills were, according to the constitution of that province, sent up to the council, or upper house, for concurrence, that they might be presented to the governor, in order to be enacted into laws. Unhappy disputes between the two houses, arising from the defects of that constitution principally, rendered all the bills but one or two abortive. The proprietary's council rejected them. It is true, Maryland did not contribute its proportion, but it was, in my opinion, the fault of the government, not of the people.

Was it not talked of in the other provinces as a proper measure to apply to parliament to compel them?—I have heard such discourse: but as it was well known that the people were not to blame, no such application was ever made, or any step taken towards it.

Was it not proposed at a public meeting?—Not that I know of.

Do you remember the abolishing of the paper currency in New England, by act of assembly?—I do remember its being abolished in the Massachusett's Bay.

Was not lieutenant governor Hutchinson principally concerned in that transaction?—I have heard so.

Was it not at that time a very unpopular law?—I believe it might, though I can say little about it, as I lived at a distance from that province.

Was not the scarcity of gold and silver

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an argument used against abolishing the paper?—I suppose it was.

What is the present opinion there of that law? Is it as unpopular as it was at first?—I think it is not.

Have not instructions from hence been sometimes sent over to governors, highly oppressive and unpolitical?—Yes.

Have not some governors dispensed with them for that reason?—Yes, I have heard so.

Did the Americans ever dispute the controuling power of parliament to regulate the commerce?—No.

Can any thing less than a military force carry the Stamp Act into execution?—I do not see how a military force can be applied to that purpose.

Why may it not?—Suppose a military force sent into America, they will find nobody in arms; what are they then to do? They cannot force a man to take stamps who chuses to do without them. They will not find a rebellion; they may indeed make one.

If the act is not repealed, what do you think will be the consequences?—A total loss of the respect and affection the people of America bear to this country, and of all the commerce that depends on that respect and affection.

How can the commerce be affected?—You will find, that if the act is not repealed, they will take very little of your manufactures in a short time.

Is it in their power to do without them?—I think they may very well do without them.

Is it their interest not to take them?—The goods they take from Britain are either necessaries, mere conveniencies, or superfluities. The first, as cloth, &c. with a little industry they can make at home: the second they can do without, till they are able to provide them among themselves; and the last, which are much the greatest part, they will strike off immediately. They are mere articles of fashion, purchased and consumed, because the fashion in a respected country, but will now be detested and rejected. The people have already struck off, by general agreement, the use of all goods fashionable in mournings, and many thousand pounds worth are sent back as unsaleable.

Is it their interest to make cloth at home?—I think they may at present get it cheaper from Britain, I mean of the same fineness and neatness of workmanship; but when one considers other circumstances, the restraints on their trade, and the difficulty of making remittances, it is their interest to make every thing.

Suppose an act of internal regulations connected with a tax, how would they receive it?—I think it would be objected to.

Then no regulation with a tax would be submitted to?—Their opinion is, that when aids to the crown are wanted, they are to be asked of the several assemblies according to the old established usage, who will, as they have always done, grant them freely. And that their money ought not to be given away, without their consent, by persons at a distance, unacquainted with their circumstances and abilities. The granting aids to the crown, is the only means they have of recommending themselves to their sovereign, and they think it extremely hard and unjust, that a body of men, in which they have no representatives, should make a merit to itself of giving and granting what is not its own, but theirs, and deprives them of a right they esteem of the utmost value and importance, as it is the security of all their other rights.

But is not the post office, which they have long received, a tax as well as a regulation?—No; the money paid for the postage of a letter is not of the nature of a tax; it is merely a *quantum meruit* for a service done; no person is compellable to pay the money, if he does not chuse to receive the service. A man may still, as before the act, send his letter by a servant, a special messenger, or a friend, if he thinks it cheaper and safer.

But do they not consider the regulations of the post-office, by the act of last year, as a tax?—By the regulations of last year the rate of postage was generally abated near thirty per cent. through all America; they certainly cannot consider such abatement as a tax.

If an excise was laid by parliament, which they might likewise avoid paying, by not consuming the articles excised, would they then not object to it?—They would certainly object to it, as an excise is unconnected with any service done, and is merely an aid which they think ought to be asked of them, and granted by them if they are to pay it, and can be granted for them, by no others whatsoever, whom they have not impowered for that purpose.

You say they do not object to the right of parliament, in laying duties on

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goods to be paid on their importation; now, is there any kind of difference between a duty on the importation of goods and an excise on their consumption?—Yes; a very material one; an excise, for the reasons I have just mentioned, they think you can have no right to lay within their country. But the sea is yours; you maintain, by your fleets, the safety of navigation in it, and keep it clear of pirates; you may have therefore a natural and equitable right to some toll or duty on merchandizes carried through that part of your dominions, towards defraying the expence you are at in ships to maintain the safety of that carriage.

Does this reasoning hold in the case of a duty laid on the produce of their lands exported? And would they not then object to such a duty?—If it tended to make the produce so much dearer abroad as to lessen the demand for it, to be sure they would object to such a duty; not to your right of laying it, but they would complain of it as a burden, and petition you to lighten it.

Is not the duty paid on the tobacco exported a duty of that kind?—That, I think, is only on tobacco carried coastwise from one colony to another, and appropriated as a fund for supporting the college at Williamsburgh, in Virginia.

Have not the assemblies in the West Indies the same natural rights with those in North America?—Undoubtedly.

And is there not a tax laid there on their sugars exported?—I am not much acquainted with the West Indies, but the duty of four and a half per cent., on sugars exported, was, I believe, granted by their own assemblies.

How much is the poll tax in your province laid on unmarried men?—It is, I think, fifteen shillings, to be paid by every single freeman, upwards of twenty one years old.

What is the annual amount of all the taxes in Pennsylvania?—I suppose about 20,000*l.* sterling.

Supposing the Stamp Act continued, and enforced, do you imagine that ill humour will induce the Americans to give as much for worse manufactures of their own and use them, preferably to better of ours?—Yes, I think so. People will pay as freely to gratify one passion as another, their resentment as their pride.

Would the people at Boston discontinue their trade?—The merchants are a very small number compared with the body of the people, and must discontinue their trade, if nobody will buy their goods.

What are the body of the people in the colonies?—They are farmers, husbandmen or planters.

Would they suffer the produce of their lands to rot?—No; but they would not raise so much. They would manufacture more, and plough less.

Would they live without the administration of justice in civil matters, and suffer all the inconveniencies of such a situation for any considerable time, rather than take the stamps, supposing the stamps were protected by a sufficient force, where every one might have them?—I think the supposition impracticable, that the stamps should be so protected as that every one might have them. The Act requires sub-distributors to be appointed in every county town, district, and village, and they would be necessary. But the principal distributors, who were to have had a considerable profit on the whole, have not thought it worth while to continue in the office, and I think it impossible to find sub-distributors fit to be trusted, who, for the trifling profit that must come to their share, would incur the odium, and run the hazard that would attend it; and if they could be found, I think it impracticable to protect the stamps in so many distant and remote places.

But in places where they could be protected, would not the people use them rather than remain in such a situation, unable to obtain any right, or recover, by law, any debt?—It is hard to say what they would do. I can only judge what other people will think, and how they will act, by what I feel within myself. I have a great many debts due to me in America, and I had rather they should remain unrecoverable by any law than submit to the Stamp Act. They will be debts of honour. It is my opinion the people will either continue in that situation, or find some way to extricate themselves, perhaps by generally agreeing to proceed in the courts without stamps.

What do you think a sufficient military force to protect the distribution of the stamps in every part of America?—A very great force; I cannot say what, if the disposition of America is for a general resistance.

What is the number of men in America able to bear arms, or of disciplined

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militia?—There are, I suppose, at least ——[Question objected to. He withdrew. Called in again.]

Is the American Stamp Act an equal tax on that country?—I think not.

Why so?—The greatest part of the money must arise from lawsuits for the recovery of debts, and be paid by the lower sort of people, who were too poor easily to pay their debts. It is therefore a heavy tax on the poor, and a tax upon them for being poor.

But will not this increase of expence be a means of lessening the number of lawsuits?—I think not; for as the costs all fall upon the debtor, and are to be paid by him, they would be no discouragement to the creditor to bring his action.

Would it not have the effect of excessive usury?—Yes, as an oppression of the debtor.

How many ships are there laden annually in North America with flax seed for Ireland?—I cannot speak to the number of ships, but I know that in 1752, 10,000 hogsheads of flax seed, each containing seven bushels, were exported from Philadelphia to Ireland. I suppose the quantity is greatly increased since that time; and it is understood that the exportation from New York is equal to that from Philadelphia.

What becomes of the flax that grows with that flax seed?—They manufacture some into coarse, and some into a middling kind of linen.

Are there any slitting mills in America?—I think there are three, but I believe only one at present employed. I suppose they will all be set to work, if the interruption of the trade continues.

Are there any fulling mills there?—A great many.

Did you never hear that a great quantity of stockings were contracted for, for the army, during the war, and manufactured in Philadelphia?—I have heard so.

If the Stamp Act should be repealed, would not the Americans think they could oblige the parliament to repeal every external tax law now in force?—It is hard to answer questions what people at such a distance will think.

But what do you imagine they will think were the motives of repealing the Act?—I suppose they will think that it was repealed from a conviction of its inexpediency; and they will rely upon it, that while the same inexpediency subsists, you will never attempt to make such another.

What do you mean by its inexpediency?—I mean its inexpediency on several accounts; the poverty and inability of those who were to pay the tax; the general discontent it has occasioned; and the impracticability of enforcing it.

If the Act should be repealed, and the legislature should shew its resentment to the opposers of the Stamp Act, would the colonies acquiesce in the authority of the legislature? What is your opinion they would do?—I don't doubt at all, that if the legislature repeal the Stamp Act, the colonies will acquiesce in the authority.

But if the legislature should think fit to ascertain its right to lay taxes, by any act laying a small tax, contrary to their opinion, would they submit to pay the tax?—The proceedings of the people in America have been considered too much together. The proceedings of the assemblies have been very different from those of the mobs, and should be distinguished, as having no connection with each other. The assemblies have only peaceably resolved what they take to be their rights; they have not built a fort, raised a man, or provided a grain of ammunition, in order to such opposition. The ringleaders of riot they think ought to be punished; they would punish them themselves, if they could. Every sober, sensible man would wish to see rioters punished, as otherwise peaceable people have no security of person or estate. But as to an internal tax, how small soever, laid by the legislature here on the people there, while they have no representatives in this legislature, I think it will never be submitted to.—They will oppose it to the last.—They do not consider it as at all necessary for you to raise money on them by your taxes, because they are, and always have been, ready to raise money by taxes among themselves, and to grant large sums, equal to their abilities, upon requisition from the crown.—They have not only granted equal to their abilities, but, during all the last war, they granted far beyond their abilities, and beyond their proportion with this country, you yourselves being judges, to the amount of many hundred thousand pounds, and this they did freely and readily, only on a sort of promise from the secretary of state, that it should be recommended to parliament to make them compensation. It was accordingly recommended to parliament, in the most honourable manner, for them. America has been greatly misrepresented and abused here, in papers, and pamphlets,

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and speeches, as ungrateful, and unreasonable, and unjust, in having put this nation to immense expence for their defence, and refusing to bear any part of that expence. The colonies raised, paid, and clothed, near 25,000 men during the last war, a number equal to those sent from Britain, and far beyond their proportion; they went deeply into debt in doing this, and all their taxes and estates are mortgaged, for many years to come, for discharging that debt. Government here was at that time very sensible of this. The colonies were recommended to parliament. Every year the King sent down to the House a written message to this purpose, That his Majesty, being highly sensible of the zeal and vigour with which his faithful subjects in North America had exerted themselves, in defence of his Majesty's just rights and possessions, recommended it to the House to take the same into consideration, and enable him to give them a proper compensation. You will find those messages on your own journals every year of the war to the very last, and you did accordingly give 200,000*l.* annually to the crown, to be distributed in such compensation to the colonies. This is the strongest of all proofs that the colonies, far from being unwilling to bear a share of the burden, did exceed their proportion; for if they had done less, or had only equalled their proportion, there would have been no room or reason for compensation. Indeed the sums reimbursed them, were by no means adequate to the expence they incurred beyond their proportion; but they never murmured at that; they esteemed their sovereign's approbation of their zeal and fidelity, and the approbation of this House, far beyond any other kind of compensation; therefore there was no occasion for this act, to force money from a willing people; they had not refused giving money for the purposes of the act; no requisition had been made: they were always willing and ready to do what could reasonably be expected from them, and in this light they wish to be considered.

But suppose Great Britain should be engaged in a war in Europe, would North America contribute to the support of it?—I do think they would, as far as their circumstances would permit. They consider themselves as a part of the British empire, and as having one common interest with it; they may be looked on here as foreigners, but they do not consider themselves as such. They are zealous for the honour and prosperity of this nation, and while they are well used, will always be ready to support it, as far as their little power goes. In 1739 they were called upon to assist in the expedition against Carthagena, and they sent 3,000 men to join your army. It is true Carthagena is in America, but as remote from the northern colonies as if it had been in Europe. They make no distinction of wars, as to their duty of assisting in them. I know the last war is commonly spoke of here as entered into for the defence, or for the sake of the people of America. I think it is quite misunderstood. It began about the limits between Canada and Nova Scotia, about territories to which the crown indeed laid claim, but were not claimed by any British colony; none of the lands had been granted to any colonist; we had therefore no particular concern or interest in that dispute. As to the Ohio, the contest there began about your right of trading in the Indian country, a right you had by the treaty of Utrecht, which the French infringed; they seized the traders and their goods, which were your manufactures; they took a fort which a company of your merchants, and their factors and correspondents, had erected there to secure that trade. Braddock was sent with an army to re-take that fort (which was looked on here as another incroachment on the King's territory) and to protect your trade. It was not till after his defeat that the colonies were attacked. They were before in perfect peace with both French and Indians; the troops were not therefore sent for their defence. The trade with the Indians, though carried on in America, is not an American interest. The people of America are chiefly farmers and planters; scarce any thing that they raise or produce is an article of commerce with the Indians. The Indian trade is a British interest; it is carried on with British manufactures, for the profit of British merchants and manufacturers; therefore the war, as it commenced for the defence of territories of the crown, the property of no American, and for the defence of a trade purely British, was really a British war—and yet the people of America made no scruple of contributing their utmost towards carrying it on, and bringing it to a happy conclusion.

Do you think then that the taking possession of the King's territorial rights, and strengthening the frontiers, is not an

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American interest?—Not particularly, but conjointly a British and an American interest.

You will not deny that the preceding war, the war with Spain, was entered into for the sake of America; was it not occasioned by captures made in the American seas?—Yes; captures of ships carrying on the British trade there, with British manufactures.

Was not the late war with the Indians, since the peace with France, a war for America only?—Yes: it was more particularly for America than the former, but it was rather a consequence or remains of the former war, the Indians not having been thoroughly pacified, and the Americans bore by much the greatest share of the expence. It was put an end to by the army under general Bouquet; there were not above 300 regulars in that army, and above 1000 Pennsylvanians.

Is it not necessary to send troops to America, to defend the Americans against the Indians?—No, by no means; it never was necessary. They defended themselves when they were but a handful, and the Indians much more numerous. They continually gained ground, and have driven the Indians over the mountains, without any troops sent to their assistance from this country. And can it be thought necessary now to send troops for their defence from those diminished Indian tribes, when the colonies are become so populous, and so strong? There is not the least occasion for it; they are very able to defend themselves.

Do you say there were no more than 300 regular troops employed in the late Indian war?—Not on the Ohio, or the frontiers of Pennsylvania, which was the chief part of the war that affected the colonies. There were garrisons at Niagara, Fort Detroit, and those remote posts kept for the sake of your trade; I did not reckon them, but I believe that on the whole the number of Americans, or provincial troops, employed in the war, was greater than that of the regulars. I am not certain, but I think so.

Do you think the assemblies have a right to levy money on the subject there, to grant to the crown?—I certainly think so; they have always done it.

Are they acquainted with the Declaration of Rights; and do they know that by that statute, money is not to be raised on the subject but by consent of parliament?—They are very well acquainted with it.

How then can they think they have a right to levy money for the crown, or for any other than local purposes?—They understand that clause to relate to subjects only within the realm; that no money can be levied on them for the crown, but by consent of parliament. The colonies are not supposed to be within the realm; they have assemblies of their own, which are their parliaments, and they are, in that respect, in the same situation with Ireland. When money is to be raised for the crown upon the subject in Ireland, or in the colonies, the consent is given in the parliament of Ireland, or in the assemblies of the colonies. They think the parliament of Great Britain cannot properly give that consent till it has representatives from America; for the Petition of Right expressly says, it is to be by common consent in parliament, and the people of America have no representatives in parliament, to make a part of that common consent.

If the Stamp Act should be repealed, and an act should pass, ordering the assemblies of the colonies to indemnify the sufferers by the riots, would they obey it?—That is a question I cannot answer.

Suppose the King should require the colonies to grant a revenue, and the parliament should be against their doing it, do they think they can grant a revenue to the King, without the consent of the parliament of Great Britain?—That is a deep question. As to my own opinion I should think myself at liberty to do it, and should do it, if I liked the occasion.

When money has been raised in the colonies, upon requisitions, has it not been granted to the King?—Yes, always; but the requisitions have generally been for some service expressed, as to raise, clothe, and pay troops, and not for money only.

If the act should pass, requiring the American assemblies to make compensation to the sufferers, and they should disobey it, and then the parliament should, by another act, lay an internal tax, would they then obey it?—The people will pay no internal tax: and I think an act to oblige the assemblies to make compensation is unnecessary, for I am of opinion, that as soon as the present heats are abated, they will take the matter into consideration, and if it is right to be done, they will do it of themselves.

Do not letters often come into the post offices in America, directed into some inland town where no post goes?—Yes.

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Can any private person take up those letters, and carry them as directed?—Yes; any friend of the person may do it, paying the postage that has accrued.

But must not he pay an additional postage for the distance to such an inland town?—No.

Can the post-master answer delivering the letter, without being paid such additional postage?—Certainly he can demand nothing, where he does no service.

Suppose a person, being far from home, finds a letter in a post office directed to him, and he lives in a place to which the post generally goes, and the letter is directed to that place, will the post-master deliver him the letter, without his paying the postage received at the place to which the letter is directed?—Yes; the office cannot demand postage for a letter that it does not carry, or farther than it does carry it.

Are not ferrymen in America obliged, by act of parliament, to carry over the posts without pay?—Yes.

Is not this a tax on the ferrymen?—They do not consider it as such, as they have an advantage from persons travelling with the post.

If the Stamp Act should be repealed, and the crown should make a requisition to the colonies for a sum of money, would they grant it?—I believe they would.

Why do you think so?—I can speak for the colony I live in; I had it in instruction from the assembly to assure the ministry, that as they always had done, so they should always think it their duty to grant such aids to the crown as were suitable to their circumstances and abilities, whenever called upon for the purpose, in the usual constitutional manner; and I had the honour of communicating this instruction to that hon. gentleman then minister.

Would they do this for a British concern; as suppose a war in some part of Europe, that did not affect them?—Yes, for any thing that concerned the general interest. They consider themselves as a part of the whole.

What is the usual constitutional manner of calling on the colonies for aids?—A letter from the secretary of state.

Is this all you mean, a letter from the secretary of state?—I mean the usual way of requisition, in a circular letter from the secretary of state, by his Majesty's command, reciting the occasion, and recommending it to the colonies to grant such aids as became their loyalty, and were suitable to their abilities.

Did the secretary of state ever write for money for the crown?—The requisitions have been to raise, clothe, and pay men, which cannot be done without money.

Would they grant money alone, if called on?—In my opinion they would, money as well as men, when they have money, or can procure it.

If the parliament should repeal the Stamp Act, will the assembly of Pennsylvania rescind their resolutions?—I think not.

Before there was any thought of the Stamp Act, did they wish for a representation in parliament?—No.

Don't you know that there is, in the Pennsylvania charter, an express reservation of the right of parliament to lay taxes there?—I know there is a clause in the charter, by which the King grants that he will levy no taxes on the inhabitants, unless it be with the consent of the assembly, or by an act of parliament.

How then could the assembly of Pennsylvania assert, that laying a tax on them by the Stamp Act was an infringement of their rights?—They understand it thus: by the same charter, and otherwise, they are entitled to all the privileges and liberties of Englishmen; they find in the Great Charters, and the Petition and Declaration of Rights, that one of the privileges of English subjects is, that they are not to be taxed but by their common consent; they have therefore relied upon it, from the first settlement of the province, that the parliament never would, nor could, by colour of that clause in the charter, assume a right of taxing them, till it had qualified itself to exercise such right, by admitting representatives from the people to be taxed, who ought to make a part of that common consent.

Are there any words in the charter that justify that construction?—The common rights of Englishmen, as declared by Magna Charta, and the Petition of Right, all justify it.

Does the distinction between internal and external taxes exist in the words of the charter?—No, I believe not.

Then may they not, by the same interpretation, object to the parliament's right of external taxation?—They never have hitherto. Many arguments have been lately used here to shew them that there

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is no difference, and that if you have no right to tax them internally, you have none to tax them externally, or make any other law to bind them. At present they do not reason so, but in time they may possibly be convinced by these arguments.

Do not the resolutions of the Pennsylvania assemblies say, all taxes?—If they do, they mean only internal taxes; the same words have not always the same meaning here and in the colonies. By taxes they mean internal taxes; by duties they mean customs; these are the ideas of the language.

Have you not seen the resolutions of the Massachusett's Bay assembly?—I have.

Do they not say, that neither external nor internal taxes can be laid on them by parliament?—I don't know that they do; I believe not.

If the same tax should say neither tax nor imposition could be laid, does not that province hold the power of parliament can lay neither?—I suppose that by the word imposition, they do not intend to express duties to be laid on goods imported, as regulations of commerce.

What can the colonies mean then by imposition as distinct from taxes?—They may mean many things, as impressing of men, or of carriages, quartering troops on private houses, and the like; there may be great impositions that are not properly taxes.

Is not the post-office rate an internal tax laid by act of parliament?—I have answered that.

Are all parts of the colonies equally able to pay taxes?—No, certainly; the frontier parts, which have been ravaged by the enemy, are greatly disabled by that means, and therefore, in such cases, are usually favoured in our tax laws.

Can we, at this distance, be competent judges of what favours are necessary?—The parliament have supposed it, by claiming a right to make tax laws for America; I think it impossible.

Would the repeal of the Stamp Act be any discouragement of your manufactures? Will the people that have begun to manufacture decline it?—Yes, I think they will; especially if, at the same time, the trade is opened again, so that remittances can be easily made. I have known several instances that make it probable. In the war before last, tobacco being low, and making little remittance, the people of Virginia went generally into family manufactures. Afterwards, when tobacco bore a better price, they returned to the use of British manufactures. So fulling mills were very much disused in the last war in Pennsylvania, because bills were then plenty, and remittances could easily be made to Britain for English cloth and other goods.

If the Stamp Act should be repealed, would it induce the assemblies of America to acknowledge the right of parliament to tax them, and would they erase their resolutions?—No, never.

Is there no means of obliging them to erase those resolutions?—None, that I know of; they will never do it, unless compelled by force of arms.

Is there a power on earth that can force them to erase them?—No power, how great soever, can force men to change their opinions.

Do they consider the post office as a tax, or as a regulation?—Not as a tax, but as a regulation and conveniency; every assembly encouraged it, and supported it in its infancy, by grants of money, which they would not otherwise have done; and the people have always paid the postage.

When did you receive the instructions you mentioned?—I brought them with me, when I came to England, about 15 months since.

When did you communicate that instruction to the minister?—Soon after my arrival, while the stamping of America was under consideration, and before the Bill was brought in.

Would it be most for the interest of Great Britain, to employ the hands of Virginia in tobacco, or in manufactures?—In tobacco, to be sure.

What used to be the pride of the Americans?—To indulge in the fashions and manufactures of Great Britain.

What is now their pride?—To wear their old clothes over again, till they can make new ones.——Withdrew.

The Committee of the whole House, having, in a great measure, finished their examination of persons and papers, it was at length moved, on the 21st of January, 1766,

That it is the opinion of this Committee, that the House be moved, that leave be given to bring in a Bill to repeal an Act passed in the last session of parliament, intitled, 'An Act for granting and applying certain stamp duties, and other duties in the British colonies and plantations in

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America, towards farther defraying the expences of defending, protecting, and securing the same, and for amending such parts of the several acts of parliament relating to the trade and revenues of the said colonies and plantations, as direct the manner of determining and recovering the penalties and forfeitures therein mentioned.'

It was afterwards proposed to leave out the word 'repeal,' and insert 'explain and amend.' Upon which there ensued a debate. The question was put, whether the word 'repeal' should stand. Ayes 275; Noes 167. Then the question was put and agreed to.

Proceedings in the Commons on the Bill to repeal the American Stamp Act.] February 24. The Committee of the whole House, to whom it was referred to consider of the several Papers presented to the House, relative to the Disturbances in America, on account of the Stamp Act, reported the following Resolutions to the House:

1. "That the King's Majesty, by and with the consent of the Lords spiritual and temporal, and Commons of Great Britain, in parliament assembled, had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the colonies and people of America, subjects of the crown of Great Britain, in all cases whatsoever.

2. "That tumults and insurrections of the most dangerous nature have been raised, and carried on, in several of the North American colonies, in open defiance of the powers and dignity of his Majesty's government, and in manifest violation of the laws and legislative authority of this kingdom.

3. "That the said tumults and insurrections have been greatly countenanced and inflamed by votes and resolutions, passed in several of the assemblies in the said provinces, highly injurious to the honour of his Majesty's government, and tending to destroy the legal and constitutional dependency of the said colonies on the imperial crown and parliament of Great Britain.

4. "That such persons, who, on account of the desire which they have manifested to comply with, or to assist in carrying into execution, any acts of the legislature of Great Britain, relating to the British colonies in North America, have suffered any injury or damage, ought to have full and ample compensation made to them for the same, by the respective colonies in which such injuries or damages were sustained.

5. "That the House be moved to resolve and declare, that all his Majesty's subjects, residing in the said colonies, who have manifested their desire to comply with, or to assist in carrying into execution, any acts of the legislature of Great Britain, relating to the British colonies in North America, have acted as dutiful and loyal subjects, and are therefore intitled to, and will assuredly have the protection of the House of Commons of Great Britain.

6. "That all persons, who by reason of the tumults and outrages in North America, have not been able to procure stamped paper, since the passing of the Act for laying certain duties of stamps in the colonies, ought to be indemnified from all penalties and forfeitures, which they may have incurred, by writing, ingrossing, or printing on paper, vellum, or parchment, not duly stamped, as required by the said act, under proper restrictions.

7. "That the House be moved, that leave be given to bring in a Bill to repeal an Act passed in the last session of parliament, entitled, An Act for granting and applying certain stamp duties, and other duties in the British colonies and plantations in America, towards further defraying the expences of defending, protecting, and securing the same; and for amending such parts of the several acts of parliament, relating to the trade and revenues of the said colonies and plantations, as direct the manner of determining and recovering the penalties and forfeitures therein mentioned."

The first of these Resolutions being read a second time, a motion was made for its being postponed; but, after a debate, the question being put, it was carried in the negative, after which the Resolution was agreed to; as were the 2d, 3d, and 4th, after being read a second time, without any opposition; and, after the 5th was read a second time, a motion being made accordingly, the House did resolve and declare in the terms thereby proposed; after which the 6th was read a second time, and agreed to; then the 7th and last, which had occasioned a debate in the Committee, but was therein agreed to by 275 to 167; and now upon the report, as soon as it was read a second time, a motion was made for its being recommitted; whereupon some part of the Act of the 5th

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of queen Anne, chap. 8, for an union of the two kingdoms of England and Scotland, particularly the 18th article of that famous treaty, was, upon motion, read, and a debate ensued, but upon the question being put, it was carried in the negative; consequently a motion was in course made, pursuant to the said Resolution, and it was ordered, that leave be given to bring in a Bill to repeal an Act passed in the last session, for granting and applying certain stamp duties, &c.

A motion was made, that the persons appointed to bring in the Bill do make effectual provision, in the said Bill, for preserving the just rights and authority of the British legislature, by directing all votes and resolutions of the assemblies of any of the American colonies, repugnant to the said rights and authority, to be erased and expunged, before the said repeal shall take place in such respective colonies. This brought on a new debate; but upon the question being put, it was carried in the negative by 240 to 133, chiefly on account of the next motion: which was, that a Bill or Bills be brought in upon the first and sixth of the aforesaid Resolutions. Then it was ordered that the 2d, 3d, 4th, and 5th, of the aforesaid Resolutions be laid before his Majesty; and it was resolved to address his Majesty, to desire, that he would be graciously pleased to give directions, that the said Resolutions be transmitted to the governors of his Majesty's colonies and plantations in America, to be by them communicated to the assemblies of their respective governments.

The House having now continued sitting till after one o'clock in the morning of the 25th, they adjourned till next morning the 26th, on which day Mr. Fuller presented to the House according to order, a Bill for the better securing the dependency of his Majesty's dominions in America, upon the crown and parliament of Great Britain, which Bill was then read a first time, and ordered to be read a second time the next morning: and presently afterwards Mr. Secretary Conway presented to the House, according to order, a Bill to repeal an Act made in the last session of parliament, entitled, 'An Act for granting and applying certain stamp duties, and other,' &c. which Bill was then read a first time, and ordered to be read a second time, also the next morning. Both Bills passed, and were carried up to the Lords.

*Debate in the Lords on the Disturbances in America in consequence of the Stamp Act.**] February 10. The Lord Botetourt, according to order, reported from the Committee of the whole House, appointed to consider of the several Papers laid before this House, by his Majesty's command, relating to the late Riots and Tumults in America: "That the Committee had considered the matters to them referred, and had come to the following Resolutions; viz.

1. "That the King's Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons of Great Britain in parliament assembled, had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the colonies and people of America, subjects of the crown of Great Britain, in all cases whatsoever.

2. "That it appears to this Committee, that tumults and insurrections of the most dangerous nature have been raised and carried on, in several of the North American colonies, in open defiance of the power and dignity of his Majesty's government, and in manifest violation of the laws and legislative authority of this kingdom.

3. "That it appears to this Committee, that the said tumults and insurrections have been encouraged and enflamed by sundry votes and resolutions passed in several of the assemblies of the said provinces, derogatory to the honour of his Majesty's government, and destructive of the legal and constitutional dependency of the said colonies on the imperial crown and parliament of Great Britain.

4. "That it is the opinion of this Committee, that an humble Address be presented to his Majesty, to desire that his Majesty would be graciously pleased to give instructions to the governors of the several provinces where the above-mentioned tumults and insurrections have happened, that they should, in his Majesty's name, require of the assemblies of the said provinces to make proper recompense to those who have suffered in their persons or properties in consequence of the aforesaid tumults and insurrections: and to assure his Majesty, that this House will, upon this and all occasions, support the lawful authority of his crown, and the rights of parliament.

* This important Debate is now first printed from a Manuscript in the Hardwicke Collection, obligingly communicated to the Editor by the present earl of Hardwicke [A. D. 1813.]

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5. "That it is the opinion of this Committee, that all his Majesty's subjects residing in the said colonies, who have manifested their desire to comply with, or to assist in carrying into execution, the act for laying a duty on Stamps, or any other act of parliament in the British colonies in North America, have acted as dutiful and loyal subjects, and are therefore entitled to, and will assuredly have the favour and protection of this House."

The Debate arose upon the first of the above Resolutions, namely,

"That the King's Majesty, by and with "the advice and consent of the Lords spiri- "tual and temporal and Commons of Great "tain in parliament assembled, had, hath, "and of right ought to have, full power and "authority to make laws and statutes, of "sufficient force and validity to bind the "colonies and people of America, subjects "of the crown of Great Britain, in all "cases whatsoever."

The Duke of *Grafton*, after lamenting the contrariety of opinion, on the first proposition, and observing that, in questions of this interesting nature, we ought to divest ourselves of all prejudice or attachment to one man or another, declared his opinion to be, that the Americans were as liable to be taxed as any man in Great Britain. And that therefore he should not have offered the first Resolution, but that the right had been questioned, not only by the Americans, but by persons here, some of whom were eminent, and possibly the highest in the line they tread. His grace then recommended lenient measures, as thinking the Americans deluded into an opinion that England had given them up.

Lord *Shelburne* spoke next, who did not give any direct opinion on the right of parliament to tax America, though he seemed, from what I could gather of what he said, to insinuate that he was of that opinion.

His lordship said, he thought it was highly necessary never to bring constitutional points into debate but in matters of the highest consequence.

That the object of the present question seemed to him to be, whether we should, and how we should, restore tranquillity to America.

That his opinion was, that when America was acquainted of what had past in England the first day of the session, there only remained two questions for the consideration of parliament.

1st. Whether they should repeal the Act, and by that means open commerce and restore tranquillity to America; or, 2dly, Whether they should enforce it, and throw every thing into confusion. His lordship mentioned his having been lately at Antwerp, where he learnt from some of the principal persons there, that this town had refused a tax 109 times, and upon speaking on this subject afterwards in Brussels, he was informed, that it had been agitated at Vienna whether they ought to lay a tax on the Netherlands, and it had been determined it was not expedient to do it.

He applied this to the laying taxes on North America, and said, he did not choose in this situation of things to give a direct opinion on the point, but hinted at a protest if his lordship should differ in opinion with other lords.

Lord *Lyttelton* begun with observing, that he agreed with the noble lord in opinion, that this question should never have been agitated, but why? because it has been already determined by the laws of this country. It was however first agitated in America, where the right was denied.

In treating this question, I must tire your lordships with repeating many self-evident truths, but when persons of eminent knowledge and abilities dispute this point, I even doubt of my own reason.

I shall therefore take the liberty of laying before your lordships a few general maxims, not of party, but such as no statesman, no lawyer, has ever denied.

The first foundation of civil government is, that a civil society was formed by men entering into society on what may properly be called an original compact, and entrusting government with a power over their persons, liberties, and estates, for the safety of the whole. In what form or manner this power is to be exercised depends on the laws and constitutions of different countries.

There cannot be two rights existing in government at the same time, which would destroy each other; a right in government to make laws, and a right in the people, or any part, to oppose or disobey such laws. Another great principle of policy is, that in all states, democratical, aristocratical, or monarchical, or in mixed states, as Great Britain, the government must rest somewhere, and that must be fixed, or otherwise there is an end of all government. 'Imperium in imperio.'

But these great maxims which imply a subjection to the supreme government or legislature, do not exclude the existence

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of inferior legislatures with restrained powers, subject to the superior legislature. That the colonies are of this kind the many statutes made here to bind them since their first settlement plainly evince.

They went out subjects of Great Britain, and unless they can shew a new compact made between them and the parliament of Great Britain (for the king alone could not make a new compact with them) they still are subjects to all intents and purposes whatsoever. If they are subjects, they are liable to the laws of the country. Indeed, they complain that the laying internal taxes on them takes away the right of laying such taxes: this I deny; they certainly may lay such internal taxes for local purposes, and the parliament here may lay such taxes on particular occasions.

The last great maxim of this and every other free government is, that 'No subject is bound by any law to which he is not actually or virtually consenting.'

If the colonies are subjects of Great Britain, they are represented and consent to all statutes.

But it is said they will not submit to the Stamp Act as it lays an internal tax: if this be admitted, the same reasoning extends to all acts of parliament. The Americans will find themselves crampt by the Act of Navigation, and oppose that too.

The Americans themselves make no distinction between external and internal taxes. M. Otis, their champion, scouts such a distinction, and the assembly shewed they were not displeased with him, by making him their representative at the congress of the states general of America.

The only question before your lordships is, whether the American colonies are a part of the dominions of the crown of Great Britain? If not, the parliament has no jurisdiction, if they are, as many statutes have declared them to be, they must be proper objects of our legislature: and by declaring them exempt from one statute or law, you declare them no longer subjects of Great Britain, and make them small independent communities not entitled to your protection.

If opinions of this weight are to be taken up, and argued upon through mistake or timidity, we shall have many legislators; we shall have Lycurguses, and Solons, in every coffee-house, tavern, and gin-shop in London.

The weight of taxes in England are heavy, and admit but this doctrine, many thousands who have no vote in electing representatives, will follow their brethren in America, in refusing submission to any taxes. The commons of this metropolis will with pleasure hear a doctrine propagated last week, of equality being the natural right of all.

We have a constitution which, with all its faults, is a good one, but the doctrine of equality may be carried to the destruction of this monarchy. Cromwell himself did not attempt to say that taxes were to be raised without the consent of the legislature.

Lord *Camden*.—I am very unhappy the first time of speaking in this House to differ from a lord of such superior abilities and learning, but the question before your lordships concerns the common rights of mankind; it is an abstract question, and will be judged of by your lordships gravely and deliberately, without any regard to the authority of any lord who speaks on either side of the question.

My lords; he who disputes the authority of any supreme legislature treads upon very tender ground. It is therefore necessary for me in setting out to lay in my claim to your lordships, and to desire that no inference may be drawn from any thing I shall advance. I disclaim that the consequence of my reasoning will be that the colonies can claim an independence on this country, or that they have a right to oppose acts of legislature in a rebellious manner, even though the legislature has no right to make such acts. In my own opinion, my lords, the legislature had no right to make this law.

The sovereign authority, the omnipotence of the legislature, my lords, is a favourite doctrine, but there are some things they cannot do. They cannot enact any thing against the divine law, and may forfeit their right. They cannot take away any man's private property without making him a compensation. A proof of which is the many private bills, as well as public, passed every session. They have no right to condemn any man by bill of attainder without hearing him.

But though the parliament cannot take any man's private property, yet every subject must make contribution. And this he consents to do by his representatives; when the people consented to be taxed they reserved to themselves a power of giving and granting by their representatives.

The Resolution now proposed is in my

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opinion too general, as it gives the legislature an absolute power of laying any tax upon America.

Notwithstanding the King, Lords, and Commons could in ancient times tax other persons, they never could tax the clergy. I have seen a record, 17 R. 2, of the Commons offering an aid to his majesty so as the clergy, who were possessed of a third part of the lands of the kingdom, would contribute a third part of the sum wanted. The clergy on that occasion said, that the parliament had no right to tax them, they might lay any part of the money wanted on the laity, and that they, the clergy, would then do what they saw just. And so late as in the year 1674 the clergy in convocation insisted on a right to tax themselves, and this right was recognized by the Commons.

At present the clergy have dropt that right; when, I cannot pretend to say, but when they did drop it they were melted down into the body of the country, and are now electors of their own representatives.

The counties palatine were little feudal governments exercising regal authority. The method was, for the crown to require them by writ to tax themselves. Tyrrel mentions some records of writs of that kind directed to Chester. It appears, however, that afterwards the legislature took to itself the power of taxation over these counties palatine, but then when they petitioned to be represented the parliament readily granted them representatives.

It is observable, that at the close of the charter erecting Lancaster into a county palatine there is a salvo of the right to the parliament at large. And the great lord Hale, in a MS. never printed, which treats of the prerogative of the crown, observes, that this was a county palatine, without the requisites of Chester and Durham, particularly as to the power of taxing and pardoning.

Wales, my lords, was not taxed till it was united to England, when it was forthwith represented.

Calais and Berwick, when they were conquered, sent members to parliament. Guernsey, Jersey, and the Isle of Man are not yet a part of the realm of England, and have never yet been taxed.

Ireland was conquered originally, but was settled by the English. They tax themselves, and the parliament here has no right to tax them; lord Hale affirms this in the before-mentioned MS. where he says, that he thinks no acts here can bind the Irish in point of subsidies.

But, my lords, even supposing the Americans have no exclusive right to tax themselves, I maintain it would be good policy to give it them.—America feels she can do better without us, than we without her.

He spoke then to the expediency, and concluded that his opinion was, that the colonies had a right to tax themselves, and the parliament not.

Lord Chancellor *Northington*. I did not think I should have troubled your lordships on the subject of this 1st Resolution, but, upon doctrines being laid down so new, so unmaintainable, and so unconstitutional, I cannot sit silent.

I have, my lords, this day heard a paradox in every law that I know of. I thought indeed, when I came into the House, that the proposition endeavoured to be supported by the noble lord, would have been rather more modified than it has been by a heated imagination, accompanied by a facility of expression and readiness of language.

The noble lord lays it down that the Americans have an exclusive right to lay taxes on themselves, and thinks that we are not to meddle with them.

What, shall it be said that one man alone could subdue all North America, and that his authority not overruling, the parliament of Great Britain cannot retain it?

My lords, it is impossible to endeavour to prove a self evident truth.

Every government can arbitrarily inpose laws on all its subjects; there must be a supreme dominion in every state; whether monarchical, aristocratical, democratical, or mixed. And all the subjects of each state are bound by the laws made by government.

But the noble lord has endeavoured to distinguish between the civil power of government, and its casuistical power. Now, my lords, there is no writer on general law but what agrees in this principle, that every legislature should make laws for the benefit and safety of the whole; but suppose they make a law contrary to this principle, a resistance to such law is at the risk of life and fortune.

As to what the noble lord says, of the clergy not having been taxed, the instruments he alludes to are commissions from the king to the laity and the clergy to tax themselves.

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I do not know, my lords, that because pope Boniface had power to make the king and parliament here obey his orders in relation to the clergy taxing themselves, it is any argument for their right to do so. I do not know there ever was a period when the clergy had no right to vote in elections to parliament, and should be glad to be informed.

As to the convocation of king James, I deny the clergy taxed themselves at that period. Their orders are recited in acts of parliament, and had no legal force till they were enacted.

My lords, I seek for the liberty and constitution of this kingdom no farther back than the Revolution: there I make my stand. And in the reign of king William an act passed avowing the power of this legislature over the colonies.

As to the expediency of carrying the act into execution—if the noble lord means to suspend the execution, and advise the King on that head, I will tell his lordship the King cannot do it. He is sworn by his coronation oath to do the contrary; but if you should concur with his lordship as to the expediency of repeal, you will tell 12 millions of your subjects of Great Britain and Ireland, that you prefer the colonists who are got rich under their protection, and will have them at your doors, not making speeches, but using the *argumentum baculinum*.

My lords, what have these favourite Americans done? They have called a meeting of their states, and then have entered into Resolutions by which, in my opinion, they have forfeited all their charters.

But, my lords, the nature of the Stamp Act seems to be mistaken. It binds all the colonies in general, but it does not controul the power each province has to lay internal taxes for local purposes.

If all the great lawyers in Westminster-hall should give an opinion that the King could grant the territory of North America, none would say, that the King could put them out of the subjection to the *summum imperium* of Great Britain.

My lords, the colonies are become too big to be governed by the laws they at first set out with. They have therefore run into confusion, and it will be the policy of this country to form a plan of laws for them.

If they withdraw allegiance you must withdraw protection; and then the little state of Genoa, or the kingdom or rather republic of Sweden, may soon overrun them.

Lord *Mansfield*. I stand up to bring your lordships to the question before you, which is, whether the proposition made by the noble duke is, from what appears from our law and history, true or not true.

What has been wrote by those who have treated on the law of nature, or of other nations, in my opinion, is not at all applicable to the present question.

It is out of this question too, whether it is or is not expedient to repeal this act: out of this question too are the rules which are to guide the legislature in making a law. The law is made, and the question is, whether you had a right to make it.

I deny the proposition that parliament takes no man's property without his consent: it frequently takes private property without making what the owner thinks a compensation. If any lord makes objection to any part of the proposition, he ought to confine himself in his argument to the part he objects to, and not run into matters which do not relate to such objection.

I have, during the course of the debate on this great question, always wished to preserve unanimity among your lordships on every measure relating to America, and do verily believe that if every member of parliament had concurred in sentiments for the benefit of the whole, this great evil, as it now is, would have turned out for the advantage of the whole, and that the Americans, if they had time given them to cool, would have obeyed the law.

Your lordships must remember, upon the passing the Militia Act, how it was misrepresented, as a plot to send our subjects to America and Germany, and that the consequence of this was, that riots arose in several parts of the kingdom. A few of the rioters suffered death, but when people came to their cool senses, the act was obeyed.

I do not look upon Otis's pamphlet in a light other lords may—that it is to be totally disregarded. It may be called silly and mad, but mad people, or persons who have entertained silly and mad ideas, have led the people to rebellion, and overturned empires.

The proposition before your lordships has unhappily been attended with a difference of opinion in England. I shall therefore use my endeavours, in what I have to offer your lordships on this occasion, to quiet men's minds upon this subject.

In order to do this, I shall first lay down two propositions:

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1st, That the British legislature, as to the power of making laws, represents the whole British empire, and has authority to bind every part and every subject without the least distinction, whether such subjects have a right to vote or not, or whether the law binds places within the realm or without.

2nd, That the colonists, by the condition on which they migrated, settled, and now exist, are more emphatically subjects of Great Britain than those within the realm; and that the British legislature have in every instance exercised their right of legislation over them without any dispute or question till the 14th of January last.

As to the 1st proposition:

In every government the legislative power must be lodged somewhere, and the executive must likewise be lodged somewhere.

In Great Britain the legislative is in parliament, the executive in the crown.

The parliament first depended upon tenures. How did representation by election first arise? Why, by the favour of the crown. And the notion now taken up, that every subject must be represented by deputy, if he does not vote in parliament himself, is merely ideal.

At this day all the great companies here—the Bank, East India Company, and South Sea Company, have no representatives.

As to what has been said about the clergy—the fact is, that a demand made by them of a right to tax themselves was supported by the Pope; and the king and parliament of those times were weak enough to admit of it; but this admission is no proof of the right.

No distinction ought to be taken between the authority of parliament, over parts within or without the realm; but it is an established rule of construction, that no parts without the realm are bound unless named in the act. And this rule establishes the right of parliament; for unless they had a right to bind parts out of the realm, this distinction would never have been made.

As to Wales, it has been said that it was not part of the realm, and paid no taxes before it was united and represented. Now Wales, in statute *Walliæ*, 12 Edward 1, is described as a part of the crown of England.

As to the parts beyond seas which were ceded to the crown of England; such as Guienne and Calais, they have been mentioned in, and bound by different statutes, before Calais ever sent a representative to parliament.

The Isle of Man is a very late instance of a part of the realm never represented, which came to the noble duke the proprietor, under a descent of 400 years; and his grace last session applied to the justice of parliament, and never was advised to dispute their right of laying taxes, &c.

As to the sound which has been thrown out, that no money can be raised without consent, the direct contrary is the truth; for if any number of people should agree to raise money for the King, it is unconstitutional.

By the Declaration of Right, 13 Car. 1, declaring it illegal to levy money except by act of parliament, the words are, 'by loan, gift, or benevolence,' and all such kind of levies are declared void.

Objection has been made, that Money Bills begin in the House of Commons, and have past here of course without amendment. I have read an able argument of lord Nottingham's on this subject, in the Journal of the House of Commons, when he managed the conference between the Houses, and to which I refer your lordships.

I shall now consider the demesnes of the crown; Counties palatine—it has been said they were not taxed till they were represented. The act in Henry 8th's time giving Chester a right to send representatives, recites, that they were liable to and bound by all the laws made by parliament, and therefore it was but just they should be represented.

The act, Car. 2, giving the right to Durham, recites, that they were then and before liable to taxes and subsidies. And therefore I think it clear, that the counties palatine were bound by acts of parliament in England, without being named, before they sent representatives.

As to Guienne and Calais, several acts were made here from the time they were first ceded, to lay interior regulations upon them. Calais and Berwick never sent members to parliament till the time of Henry 8, but several statutes past, binding these places from the time of Henry 6.

It has been said negatively, that Wales never paid taxes till it sent members to parliament. This was in 27 Henry 8. Now in several statutes for laying taxes before that period, Wales is *nominatim* excepted, and the reason given for that

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exception in the statutes is, that they paid *mises* (which was a tax) to the king; and it is in like manner excepted out of several statutes after 27 Henry 8, till these *mises* were taken away, and then it was taxed with the other part of the realm. But as a distinction has been taken between the power of laying taxes and making laws, I must declare, that after the most diligent searches on this head, I cannot find any distinction or difference whatever.

As to the second proposition I laid out, It must be granted that they migrated with leave as colonies, and therefore from the very meaning of the word were, are, and must be subjects, and owe allegiance and subjection to their mother country.

My lords, there are three sorts of colonies in America:

King's Provinces; Proprietary Provinces, and Charter Provinces.

The King's provinces are governed by instructions sent to the governors, who after some time are directed to call assemblies, and they have a power to make bye laws for their interior government, &c.

The proprietary governments are Maryland and Pennsylvania: the first was granted to be held as the county of Durham, and that, before this county was represented in parliament, had by charter a subordinate power to make laws, so as the same were not contrary to the laws of England.

Pennsylvania was granted to W. Penn in 33 Car. 2.

The Pennsylvanians are among the loudest of those who complain of the Stamp Act. In the papers coming from them they use the King of Great Britain as they do their own proprietary king.

By their charter Mr. Penn has a power to raise money and make laws, &c. so as they be not repugnant to the laws of England. And it is provided, that a transcript of every law should be sent to Great Britain, and if repugnant to law here, shall be repealed. And an agent is to reside here to make satisfaction for all penalties; and if no satisfaction is made, the grant is to be void.

Charter governments are Virginia, Connecticut, Rhode Island, and Massachusets Bay.

These are all on the same footing as our great corporations in London. And it is worth remarking, that Massachusets Bay had a charter which in Charles 2's time was vacated in Chancery for their abuse of it. Now, is it possible to suppose that a legislature can exist with a sole power of laying taxes, which legislature may be destroyed here by a process in the courts of Chancery or King's-bench?

I find in the Journals of the House of Commons that, upon a Bill for a free fishery being brought into that House, 19 James 1, a doubt was thrown out, whether parliament had any thing to do in America. This doubt was immediately answered, I believe by Coke. The province is held of the manor of East Greenwich, and granted by charter under the great seal. This was thought a sufficient answer, and the Bill passed that House.

In the year 1650, during the Commonwealth, an act passed, avowing the subjection of the colonies to England.

The Act of Settlement is of England, &c. and all the dominions thereto belonging. If Americans are not subject to English statutes, the Act of Settlement does not bind them.

But there are many statutes laying taxes in America; I know no difference between laying internal and external taxes; but if such difference should be taken, are not the acts giving duties, customs, and erecting a post office, to be considered as laying an internal tax?

In 1724, the assembly of Jamaica refused to raise taxes for their necessary support. Application was made to the council by their agent here, and a reference to sir Clement Worge and lord Hardwicke, to know whether the king could not lay a tax. They gave their opinion, that if Jamaica was to be considered as a conquered country, the king could lay taxes; if otherwise, the assembly must lay it, or it must be raised by act of parliament.

But this notion, my lords, is of a very modern date.

In December last the authority of parliament was not disputed; even on the 14th of Jan. no hint was given in this House, which was then very full, against that authority. This day is the first time we have heard of it in this House.

Before I conclude I will take the liberty of laying down one proposition, viz.

When the supreme power abdicates, the government is dissolved.

Take care, my lords, you do not abdicate your authority. In such an event, your lordships would leave the worthy and innocent, as well as the unworthy and guilty, to the same confusion and ruin.

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His lordship has mentioned some quotations from lord chief justice Hale, whether this was wrote when his lordship was a student, barrister, or judge, does not appear, but at best it is but a quere of that learned judge on the power of England to lay taxes on Ireland. Molyneux, in his book, burnt by the hands of the common hangman, questioning the power of parliament, makes a distinction between Ireland and the colonies in this respect.

The Resolutions were then agreed to.

*Speech of Lord Camden on the American Declaratory Bill.**] When the Declaratory Bill, declaring the right of Great Britain to make laws, binding the British colonies in North America in all cases whatsoever, was brought to the Lords,

Lord *Camden* made the following speech against it:

My lords; when I spoke last on this subject, I thought I had delivered my sentiments so fully, and supported them with such reasons, and such authorities, that I apprehended I should be under no necessity of troubling your lordships again. But I am now compelled to rise up, and to beg your farther indulgence: I find that I have been very injuriously treated; have been considered as the broacher of new-fangled doctrines, contrary to the laws of this kingdom, and subversive of the rights of parliament. My lords, this is a heavy charge, but more so when made against one stationed as I am in both capacities, as peer and judge, the defender of the law and the constitution. When I spoke last, I was indeed replied to, but not answered. In the intermediate time, many things have been said. As I was not present, I must now beg leave to answer such as have come to my knowledge. As the affair is of the utmost importance, and in its consequences may involve the fate of kingdoms, I took the strictest review of my arguments; I re-examined all my authorities; fully determined, if I found myself mistaken, publicly to own my mistake, and give up my opinion: but my searches have more and more convinced me, that the British parliament have no right to tax the Americans. I shall not therefore consider the Declaratory Bill now lying on your table; for to what purpose, but loss of time, to consider the particulars of a Bill, the very existence of which is illegal, absolutely illegal, contrary to the fundamental laws of nature, contrary to the fundamental laws of this constitution? A constitution grounded on the eternal and immutable laws of nature; a constitution whose foundation and centre is liberty, which sends liberty to every subject, that is or may happen to be within any part of its ample circumference. Nor, my lords, is the doctrine new, it is as old as the constitution; it grew up with it; indeed it is its support; taxation and representation are inseparably united; God hath joined them, no British parliament can separate them; to endeavour to do it, is to stab our very vitals. Nor is this the first time this doctrine has been mentioned; 70 years ago, my lords, a pamphlet was published, recommending the levying a parliamentary tax on one of the colonies; this pamphlet was answered by two others, then much read; these totally deny the power of taxing the colonies; and why? Because the colonies had no representatives in parliament to give consent; no answer, public or private, was given to these pamphlets, no censure passed upon them; men were not startled at the doctrine as either new or illegal, or derogatory to the rights of parliament. I do not mention these pamphlets by way of authority, but to vindicate myself from the imputation of having first broached this doctrine.

My position is this—I repeat it—I will maintain it to my last hour,—taxation and representation are inseparable;—this position is founded on the laws of nature; it is more, it is itself an eternal law of nature; for whatever is a man's own, is absolutely his own; no man hath a right to take it from him without his consent, either expressed by himself or representative; whoever attempts to do it, attempts an injury; whoever does it, commits a robbery;* he throws down and destroys the distinction between liberty and slavery. Taxation and representation are coeval with and essential to this constitution. I wish the maxim of Machiavel was followed, that of examining a constitution, at certain pe-

* From the Political Register, vol. 1, p. 282.

* "These words offended Mr. Grenville exceedingly: he mentioned lord Camden's Speech in the House of Commons, and declared with an emphasis, that these particular words were a libel upon parliament; and that the printer of the Speech ought to be punished. But no notice was taken of the complaint." Almon's Biographical Anecdotes, vol. 1, p. 377.

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riods, according to its first principles; this would correct abuses and supply defects. I wish the times would bear it, and that men's minds were cool enough to enter upon such a task, and that the representative authority of this kingdom was more equally settled. I am sure some histories, of late published, have done great mischief; to endeavour to fix the æra when the House of Commons began in this kingdom, is a most pernicious and destructive attempt; to fix it in an Edward's or Henry's reign, is owing to the idle dreams of some whimsical, ill-judging antiquarians: but, my lords, this is a point too important to be left to such wrong-headed people. When did the House of Commons first begin? when, my lords? it began with the constitution, it grew up with the constitution; there is not a blade of grass growing in the most obscure corner of this kingdom, which is not, which was not ever, represented since the constitution began; there is not a blade of grass, which when taxed, was not taxed by the consent of the proprietor. There is a history written by one Carte, a history that most people now see through, and there is another favourite history, much read and admired. I will not name the author, your lordships must know whom I mean, and you must know from whence he pilfered his notions, concerning the first beginning of the House of Commons. My lords, I challenge any one to point out the time when any tax was laid upon any person by parliament, that person being unrepresented in parliament. My lords, the parliament laid a tax upon the palatinate of Chester, and ordered commissioners to collect it there: as commissioners were ordered to collect it in other counties; but the palatinate refused to comply; they addressed the king by petition, setting forth, that the English parliament had no right to tax them, that they had a parliament of their own, that they had always taxed themselves, and therefore desired the king to order his commissioners not to proceed. My lords, the king received the petition; he did not declare them either seditious or rebellious, but allowed their plea, and they taxed themselves. Your lordships may see both the petition and the king's answer in the records in the Tower. The clergy taxed themselves; when the parliament attempted to tax them, they stoutly refused; said they were not represented there; that they had a parliament of their own, which represented the clergy; that they would tax themselves; they did so. Much stress has been laid upon Wales, before it was united as it now is, as if the King, standing in the place of their former princes of that country, raised money by his own authority; but the real fact is otherwise; for I find that, long before Wales was subdued, the northern counties of that principality had representatives, and a parliament or assembly. As to Ireland, my lords, before that kingdom had a parliament as it now has, if your lordships will examine the old records, you will find, that when a tax was to be laid on that country, the Irish sent over here representatives; and the same records will inform your lordships, what wages those representatives received from their constituents. In short, my lords, from the whole of our history, from the earliest period, you will find that taxation and representation were always united; so true are the words of that consummate reasoner and politician Mr. Locke. I before alluded to his book; I have again consulted him; and finding what he writes so applicable to the subject in hand, and so much in favour of my sentiments, I beg your lordships' leave to read a little of this book.

"The supreme power cannot take from any man, any part of his property, without his own consent;" and B. 2. p. 136—139, particularly 140. Such are the words of this great man, and which are well worth your serious attention. His principles are drawn from the heart of our constitution, which he thoroughly understood, and will last as long as that shall last; and, to his immortal honour, I know not to what, under providence, the Revolution and all its happy effects, are more owing, than to the principles of government laid down by Mr. Locke. For these reasons, my lords, I can never give my assent to any bill for taxing the American colonies, while they remain unrepresented; for as to the distinction of a virtual representation, it is so absurd as not to deserve an answer; I therefore pass it over with contempt. The forefathers of the Americans did not leave their native country, and subject themselves to every danger and distress, to be reduced to a state of slavery: they did not give up their rights; they looked for protection, and not for chains, from their mother country; by her they expected to be defended in the possession of their property, and not to be deprived of it: for, should

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the present power continue, there is nothing which they can call their own; or, to use the words of Mr. Locke, "What property have they in that, which another may, by right, take, when he pleases, to himself?"

Protest against Committing the Bill to repeal the American Stamp Act.] March 11. The order of the day being read for the second reading of the Bill, intitled, "An Act to repeal an act made in the last session of parliament, intitled, An Act for granting and applying certain Stamp Duties, and other duties in the British colonies and plantations in America, towards farther defraying the expences of defending, protecting, and securing the same, and for amending such parts of the several acts of parliament relating to the trade and revenues of the said colonies and plantations, as direct the manner of determining and recovering the penalties and forfeitures therein mentioned:"

Then the said Bill was read a second time, and it being proposed to commit the Bill, the same was objected to. Content 73; Proxies 32; Total 105; Not Contents 61; Proxies 10; Total 71; Majority 34.

After a long debate* thereupon, the question was put, Whether the said Bill shall be committed? It was resolved in the affirmative.

"Dissentient,

1. "Because, as this House has in this session, by several resolutions, most solemnly asserted and declared, first, 'That the King's Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons of Great Britain, in parliament assembled, had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the colonies and people of America, subjects of the crown of Great Britain, in all cases whatsoever.' Secondly, 'That tumults and insurrections of the most dangerous nature have been raised and carried on in several of the North American colonies, in open defiance of the power and dignity of his Majesty's government, and in manifest violation of the laws and legislative authority of this kingdom.' Thirdly, 'That the said tumults and insurrections have been encouraged and inflamed, by sundry votes and resolutions passed in several of the assemblies of the said provinces, derogatory to the honour of his Majesty's government, and destructive of the legal and constitutional dependency of the said colonies, on the imperial crown and parliament of Great Britain.' Which resolutions were founded on a full examination of the papers on our table manifesting a denial of the legislative authority of the crown and parliament of Great Britain, to impose duties and taxes on our North American colonies; and a criminal resistance there made to the execution of the commercial and other regulations of the Stamp Act, and of other acts of parliament: we are of opinion, that the total repealing of that law, especially while such resistance continues, would (as Governor Barnarde says is their intention) 'make the authority of Great Britain contemptible hereafter;' and that such a submission of King, Lords, and Commons, under such circumstances, in so strange and unheard-of a contest, would, in effect, surrender their ancient, unalienable rights of supreme jurisdiction, and give them exclusively to the subordinate provincial legislatures established by prerogative; which was never intended or thought of, and is not in the power of prerogative to bestow; as they are inseparable from the three estates of the realm assembled in parliament.

2. "Because the law, which this Bill now proposes to repeal, was passed in the other House with very little opposition, and in this without one dissentient voice, during the last session of parliament, which we presume, if it had been wholly and fundamentally wrong, could not possibly have happened; as the matter of it is so important, and as the intention of bringing it in had been communicated to the Commons by the first commissioner of the treasury the year before; and a resolution, relating and preparatory to it, was then agreed to in that House without any division.

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* Speakers on the second reading.

Against the Bill.	*For the Bill.*
1. Earl of Coventry.	2. D. of Newcastle.
3. Earl of Sandwich.	4. Duke of Grafton.
5. Earl of Halifax.	6. D. of Richmond.
9. Lord Botetourt.	7. Earl Poulet.
10. Earl of Suffolk.	8. Earl of Pomfret.
12. Lord Lyttelton.	11. Lord Chancellor.
14. Lord Mansfield.	13. Earl of Shelburne.
16. Visc. Townshend.	15. Lord Camden.
17. Earl Temple.	
18. Duke of Bedford.	

The speeches of these noble lords have not been any where preserved.

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3. "Because, if any particular parts of that law, the principle of which has been experienced and submitted to in this country, without repining, for near a century past, had been found liable to just and reasonable objections, they might have been altered by a Bill to explain and amend it, without repealing the whole: and if any such Bill had been sent to us by the Commons, we should have thought it our duty to have given it a most serious consideration, with a warm desire of relieving our countrymen in America from any grievance or hardship; but with proper care to enforce their submission and obedience to the law so amended, and to the whole legislative authority of Great Britain, without any reserve or distinction whatsoever.

4. "Because it appears to us, that a most essential branch of that authority, the power of taxation, cannot be properly, equitably, or impartially exercised, if it does not extend itself to all the members of the state, in proportion to their respective abilities, but suffers a part to be exempt from a due share of those burdens which the public exigencies require to be imposed upon the whole: a partiality which is directly and manifestly repugnant to the trust reposed by the people in every legislature, and destructive of that confidence on which all government is founded.

5. "Because the ability of our North-American colonies to bear, without inconveniency, the proportion laid on them by the Stamp Act of last year, appears to us most unquestionable, for the following reasons: First, that the estimated produce of this tax, amounting to 60,000*l.* per annum, if divided amongst 1,200,000 people, (being little more than one half of the subjects of the crown in North America), would be only one shilling per head a year; which is but a third of the wages usually paid to every labourer or manufacturer there for one day's labour: secondly, that it appears, by the accounts that have been laid before this House from the commissioners of trade and plantations, that of the debt contracted by those colonies in the last war, above 1,755,000*l.* has already been discharged, during the course of three years only, by the funds provided for that purpose in the several provinces; and the much greater part of the remaining incumbrance, which in the whole is about 760,000*l.*, will be paid in two years more. We must likewise observe, that the bounties and advantages given to them by parliament in 1764 and 1765, and the duties thereby lost to Great Britain for their service, and, in order to enable them the more easily to pay this tax, must necessarily amount, in a few years, to a far greater sum than the produce thereof. It is also evident, that such produce being wholly appropriated to the payment of the army maintained by this kingdom in our colonies, at the vast expence of almost a shilling in the pound land tax, annually remitted by us for their special defence and protection; not only no money would have been actually drawn by it out of that country, but the ease given by it to the people of Great Britain, who are labouring under a debt of seventy millions, contracted by them to support a very dangerous war, entered into for the interest and security of those colonies, would have redounded to the benefit of the colonies themselves in their own immediate safety, by contributing to deliver them from the necessary expence which many of them have hitherto always borne, in guarding their frontiers against the savage Indians.

6. "Because not only the right, but the expediency and necessity of the supreme legislature's exerting its authority to lay a general tax on our American colonies, whenever the wants of the public make it fitting and reasonable that all the provinces should contribute, in a proper proportion, to the defence of the whole, appear to us undeniable, from these considerations: First, that every province being separate and independant on the others, and having no common council impowered by the constitution of the colonies to act for all, or bind all, such a tax cannot regularly, or without infinite difficulty, be imposed upon them, at any time, even for their immediate defence or protection, by their own provincial assemblies; but requires the intervention and superintending power of the parliament of Great Britain: Secondly, that in looking forwards to the possible contingency of a new war, a contingency, perhaps, not far remote, the prospect of the burdens, which the gentry and people of this kingdom must then sustain, in addition to those which now lie so heavy upon them, is so melancholy and dreadful, that we cannot but feel it a most indispensable duty to ease them as much as is possible, by a due and moderate exertion of that great right which the constitution of this realm has vested in the parliament, to provide for the safety of all, by a proportionable charge upon all, equally and indiffe-

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rently laid. We likewise apprehend, that a partial exemption of our colonies from any exercise of this right, by the British legislature, would be thought so invidious, and so unjust to the other subjects of the crown of Great Britain, as to alienate the hearts of these from their countrymen residing in America, to the great detriment of the latter, who have on many occasions received, and may again want, assistance, from the generous warmth of their affection.

7. "Because the reasons assigned in the public resolutions of the provincial assemblies, in the North American colonies, for their disobeying the Stamp Act, viz. "That they are not represented in the parliament of Great Britain," extends to all other laws of what nature soever, which that parliament has enacted, or shall enact, to bind them in times to come, and must (if admitted) set them absolutely free from any obedience to the power of the British legislature. We likewise observe, that in a letter to Mr. Secretary Conway, dated the 12th of October, 1765, the commander in chief of his Majesty's forces in North America has declared his opinion, 'That the question is not of the inexpediency of the Stamp Act, or of the inability of the colonies to pay the tax, but that it is unconstitutional, and contrary to their rights, supporting the independency of the provinces, and not subject to the legislative power of Great Britain.' It is, moreover, affirmed, in a letter to Mr. Conway, dated the 7th of November, 'That the people in general are averse to taxes of any kind; and that the merchants of that place think they have a right to every freedom of trade which the subjects of Great Britain now enjoy.' This opinion of theirs strikes directly at the Act of Navigation, and other subsequent laws, which from time to time have been made on the wise policy of that Act; and should they ever be encouraged to procure for themselves that absolute freedom of trade which they appear to desire, our plantations would become not only of no benefit, but in the highest degree prejudicial to the commerce and welfare of their mother country: nor is it easy to conceive a greater encouragement than the repealing of a law, opposed by them on such principles, and with so much contempt of the sovereignty of the British legislative.

8. "Because the appearance of weakness and timidity in the government and parliament of this kingdom, which a concession of this nature may too probably carry with it, has a manifest tendency to draw on further insults, and, by lessening the respect of all his Majesty's subjects to the dignity of his crown, and authority of his laws, throw the whole British empire into a miserable state of confusion and anarchy, with which it seems, by many symptoms, to be dangerously threatened. And this is the more to be feared, as the plea of our North American colonies, that, not being represented in the parliament of Great Britain, they ought not to pay taxes imposed or levied upon them by the authority thereof, may, by the same reasoning, be extended to all persons in this island, who do not actually vote for members of parliament; nor can we help apprehending, that the opinion of some countenance being given to such notions by the legislature itself, in consenting to this Bill for the repeal of the Stamp Act, may greatly promote the contagion of a most dangerous doctrine, destructive to all government, which has spread itself over all our North American colonies, that the obedience of the subject is not due to the laws and legislature of the realm, farther than he, in his private judgment, shall think it conformable to the ideas he has formed of a free constitution.

9. "Because we think it no effectual guard, or security, against this danger, that the parliament has declared, in the resolutions of both Houses passed during this session, and now reduced into a Bill, that such notions are ill founded; as men will always look more to deeds than words, and may therefore incline to believe that the insurrections in our colonies, excited by those notions, having so far proved successful as to attain the very point at which they aimed, the immediate repeal of the Stamp Act, without any previous submission on the part of the colonies; the legislature has, in fact, submitted to them, and has only more grievously injured its own dignity and authority by verbally asserting that right which it substantially yields up to their opposition. The reasons assigned for this concession render it still more alarming, as they arise from an illegal and hostile combination of the people of America to distress and starve our manufacturers, and to with-hold from our merchants the payment of their just debts; the former of which measures has only been practised in open war between two states, and the latter, we believe, not even in that situation, either by the public, or by individuals, among the civilized nations

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of Europe in modern times. If this unprecedented plan of intimidation shall meet with success, it is easy to foresee that the practice of it, for other and still greater objects, will frequently be renewed, and our manufacturers and merchants reduced to the like, and more permanent distress: we cannot, therefore, but wish, that some more eligible method, consistent with their future safety, and our dignity, had been taken by parliament, to shew our tender concern and compassion for their sufferings, and to discourage any other such unwarrantable attempts; which, we are fully persuaded, would have been very practicable, with due care and attention, and at an expence very inferior to the importance of the object.

Lastly, "Because we are convinced, from the unanimous testimony of the governors, and other officers of the crown in America, that if, by a most unhappy delay and neglect to provide for the due execution of the law, and arm the government there with proper orders and powers, repeatedly called for in vain, these disturbances had not been continued and increased, they might easily have been quieted before they had attained to any dangerous height; and we cannot, without feeling the most lively sense of grief and indignation, hear arguments, drawn from the progress of evils which should and might have been stopped in their first and feeble beginnings, used for the still greater evil of sacrificing to a present relief the highest permanent interests, and the whole majesty, power, and reputation of government. This afflicts us the more deeply, because it appears, from many letters, that this law, if properly supported by government, would, from the peculiar circumstances attending the disobedience to it, execute itself, without bloodshed. And it is said, in one of the letters to Mr. Secretary Conway, 'That the principal view is to intimidate the parliament; but that if it be thought prudent to enforce their authority, the people dare not oppose a vigorous resolution of the parliament of Great Britain.' That vigorous resolution has not yet been found in the parliament; and we greatly fear, that the want of it will certainly produce one of these two fatal consequences; either that the repeal of this law will, in effect, annul and abrogate all other laws and statutes relating to our colonies, and, particularly, the acts that restrain or limit their commerce, of which they are most impatient; or, if we should hereafter attempt to enforce the execution of those laws against their will, and by virtue of an authority which they have dared to insult with impunity and success, that endeavour will bring upon us all those evils and inconveniences, to the fear of which we now sacrifice the sovereignty of the realm, and this at a time when the strength of our colonies, as well as their desire of a total independence on the legislature and government of their mother country, may be greatly augmented; and when the circumstances and dispositions of the other powers of Europe may render the contest far more dangerous and formidable to this kingdom.—*(Signed)* Bedford, Coventry, Bridgewater, Temple, Buckingham, Wentworth, Sandwich, Bolingbroke, Marlborough, W. Gloucester, Ker, Leigh, Bangor, Waldegrave, Aylesford, Gower, Weymouth, Scarsdale, Lyttelton, Dunk Hallifax, Eglington, Suffolk and Berkshire, Abercorn, Vere, Trevor, Thomas Bristol, Ferrers, Grosvenor, Townshend, Dudley and Ward, Charles Carlisle, Powis, Hyde."

Protest against passing the Bill to repeal the American Stamp Act.] March 17. The order of the day being read for the third reading of the Bill entitled, 'An Act to repeal an Act made in the last session of parliament,' entitled, 'An Act for granting and applying certain Stamp duties, and other duties in the British colonies and plantations in America, towards farther defraying the expences of defending, protecting, and securing the same, and for amending such parts of the several acts of parliament relating to the trade and revenues of the said colonies and plantations, as direct the manner of determining and recovering the penalties and forfeitures therein mentioned.' Then the said Bill was read a third time, and it being proposed to pass the Bill, the same was objected to. After some debate thereupon, the question was put, Whether the said Bill shall pass? It was resolved in the affirmative.*

"Dissentient.

1. "Because we think that the Decla-

* Speakers on the third reading.

Against the Repeal.	*For the Repeal.*
1. Lord Lyttelton.	4. Duke of Newcastle.
2. Earl of Bute.	
3. Earl Gower.	

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ratory Bill, we passed last week, cannot possibly obviate the growing mischiefs in America, where it may seem calculated only to deceive the people of Great Britain, by holding forth a delusive and nugatory affirmance of the legislative right of this kingdom, whilst the enacting part of it does no more than abrogate the resolutions of the House of representatives in the North American colonies, which have not in themselves the least colour of authority; and declares that, which is apparently and certainly criminal, only null and void.

2. "Because the particular objections which have been made to the Stamp Act in North America, and which have been adopted in the course of the debates upon this Bill for repealing it, are, in fact, contradicted by undeniable evidence upon our table: it having been urged, first, that all the money to be collected by this tax was to be annually remitted hither, and that the North American colonies would thereby be drained of all their specie: and, secondly, that the institution of vice-admiralty courts in those colonies, for the recovery of penalties upon revenue laws without juries, is a novel practice, by means of which his Majesty's subjects, in those dominions, 'would be deprived of one of their most valuable liberties, trials by juries, and in this respect distinguished from their fellow subjects in Great Britain;' and would likewise be liable to the greatest inconvenience, vexation, and injustice, through the option left to any prosecutor to call them from one end of that extensive continent to the other; and through the temptation to the judge, to condemn rather than to acquit, from his being paid by poundage of the condemnation money: whereas, with regard to the first of these objections, it appears, by the minute of the late board of treasury laid before this House, and dated on the 9th day of July last, that the fullest directions had been sent to the several officers of the revenue, 'that in order to obviate the inconvenience of bringing into this kingdom the money to be raised by the Stamp duties, all the produce of the American duties arising or to arise, by virtue of any British act of parliament, should from time to time, be paid to the deputy paymaster in America, to defray the subsistence of the troops, and any military expences incurred in the colonies:' and, with regard to the second objection, it is manifest, from sundry acts of parliament, that a jurisdiction has been assigned to the judges of those courts, for the recovery of penalties upon the laws of revenue, and of trade, without juries, for near a century past, from the consideration (as we apprehend) that, in some of the colonies, they are the only judges not elected by the people: and so far it is from being true, that the subjects in North America, by being deprived, in these cases, of trials by juries, were, in that respect, distinguished from ther fellow subjects in Great Britain; that, in this very instance of the Stamp duties, the penalties, which by the American Stamp Act were made recoverable without a jury before a judge of the Vice Admiralty court, are, by the laws now in force for collecting the Stamp duties in Great Britain, recoverable also without a jury, before two justices of the peace, with the like powers in both cases, which we earnestly wish were not still more necessary for the collection of the public revenue in America than in Great Britain; and which we should be most desirous, if possible, to alleviate in both countries. With this view, and to take away all just occasion for discontent, we were very glad to find, by the Representation from the late commissioners of the treasury to his Majesty in council, dated on the 4th of July last, that the strictest attention had been given by that board, to prevent the inconvenience and injustice above-mentioned, by a plan to establish three different courts of Vice Admiralty at the most convenient places, with proper districts annexed to each; and to give the judges sufficient and honourable salaries in lieu of all poundage and fees whatsoever. But we cannot observe, without the highest concern and surprise, that this representation, founded upon a clause inserted in the Stamp Act for this very purpose, and expressly calculated to relieve his Majesty's subjects in North America from many unnecessary hardships and oppressions, to which they are now liable by many other laws, still subsisting, should be totally disregarded for several months, and be suffered to remain unexecuted in every part of it, even to this day; and that no notice whatever should be taken, in any of the dispatches from the present administration to the governors of the colonies in North America, of the timely care which had been employed to obviate the objections raised on both these heads; especially as it is notorious, that the measures to be pursued, in consequence of that minute and representation,

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had been fully opened and approved in parliament, at the time when the Stamp Act was proposed; and as the total neglect of it has given occasion to great clamour and dissatisfaction in the colonies. We cannot help farther observing, that as the Stamp Act was not to take place till the 1st of November, if the parliament had been called early, their determinations, either for enforcing or repealing that law, would, probably, have delivered the merchants and manufacturers here from all the difficulties and distress to which they have been, for so many months, exposed: nor would the disorders in America, where all government is prostrate, have risen to so great a height, or taken so deep a root.

3. "Because the argument which has been used in favour of this Bill of repeal, that the experiment of the Stamp Act has been tried, and has failed, is extremely ill-founded, as it manifestly appears, from the whole tenor of the papers laid before us, that if this experiment had been properly tried with the same zeal for its success with which it was first proposed, it would not have failed in any of the colonies: and that this was the opinion of the greater part of the governors in North America, and of many of the most intelligent and respectable persons in those provinces, for some time after this act was passed, is evident, beyond a doubt, from the letters of the former, now upon our table, and from the latter having applied for, and accepted the office of distributors of the stamps under that act, which they certainly would not have done, and thereby have exposed their lives and fortunes to the violence and outrages which they have since undergone, if they had then thought the success of this measure in any degree precarious: nor have we heard of any impracticability attending this law in Jamaica and Barbadoes, and some other of the West India islands, or in those of our colonies in North America, where it has been executed.

4. "Because a precedent of the two Houses of Parliament lending their power, from motives of fear or impatience under a present uneasiness, to overturn, in one month, a plan of measures undertaken with their warmest approbation and concurrence, after the most mature deliberation of two years together for the improvement of our revenue, and the relief of our people, will effectually discourage all officers of the crown in America from doing their duty, and executing the laws of this kingdom; and is enough to deter future ministers, in any circumstances of distress or danger to their country, from opposing their fortitude and zeal for the service of the public, to strong combinations of private and particular interests, to the clamour of multitudes, or the malice of faction; which must necessarily bring on such a weakness and pusillanimity in the administration of government, as will soon end in the downfall and ruin of the state.

Lastly, "Because the repeal of this law, under the present circumstances, will, we fear, not only surrender the honour and essential interests of the kingdom now and for ever, both at home and abroad, but will also deeply affect the fundamental principles of our constitution: for if we pass this Bill, against our opinion, from the threats and compulsion publicly avowed in our colonies, and enforced by the most unjustifiable means within Great Britain, we disclaim that legislative authority over the subject, which we own ourselves unable to maintain. If we give our consent to it here, without a full conviction that it is right, merely because it has passed the other House, by declining to do our duty on the most important occasion which can ever present itself, and where our interposition, for many obvious reasons, would be peculiarly proper, we, in effect, annihilate this branch of the legislature, and vote ourselves useless. Or, if by passing this Bill, we mean to justify those who in America, and even in Great Britain, have treated a series of British acts of parliament as so many acts of tyranny and oppression, which it is scarcely criminal to resist; or those officers of the crown, who, under the eye, and with the knowledge of government, have taken upon themselves, whilst the parliament was sitting, without its consent, to suspend the execution of the Stamp Act, by admitting ships from the colonies, with unstamped clearances, to an entry, in direct violation of it, which from the papers upon our table, appears to have been done; we shall then give our approbation to an open breach of the first article of that great palladium of our liberties, the Bill of Rights; by which it is declared, 'that the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of parliament, is illegal.' Lastly, If we ground our proceedings upon the opinion of those who have contended in this House, that

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from the constitution of our colonies they ought never to be taxed, even for their own immediate defence, we fear that such a declaration, by which near a fifth part of the subjects of Great Britain, who by the acts of parliament to restrain the pressing of seamen in America are already exempted from furnishing men to our navy, are to be for ever exempted from contributing their share towards their own support in money likewise, will, from the flagrant partiality and injustice of it, either depopulate this kingdom, or shake the basis of equality, and of that original compact upon which every society is founded: and as we believe that there is no instance of such a permanent exemption of so large a body of the subjects of any state, in any history, ancient or modern, we are extremely apprehensive of the fatal consequences of this unhappy measure; to which, for these reasons, in addition to those contained in the Protest of the 11th of this month, our duty to the King, and justice to our country, oblige us to enter this our solemn dissent.——*(Signed)* Temple, Abercorn, Marlborough, Sandwich, Charles Carlisle, Weymouth, Thomas Bristol, W. Gloucester, Buckinghamshire, R. Duresme, Scarsdale, J. Bangor, Dudley and Ward, Suffolk and Berkshire, Leigh, Bridgewater, Gower, Grosvenor, Powis, Trevor, Hyde, Ker, Lyttleton, Essex, Ferrers, Aylesford, Vere, Eglingtoun."

Summary of the Debate in both Houses on the Right of Taxing America, and on the Bill to repeal the American Stamp Act.] The following very able Summary of the Debates in both Houses on the American Declaratory Bill, and on the Bill to repeal the American Stamp Act, is taken from the Annual Register for the year 1766:

Neither the arguments nor facts contained in the Petitions could prevail on the party who had resolved on the support of the Stamp Act at all events, to remit in the least of their ardour.

They represented the petitions as the effects of ministerial artifice. And they argued, even if the distress of trade, from a due exertion of the authority of parliament, had been as real and as great as it was represented; yet it were better to submit to this temporary inconvenience, than, by a repeal of the Act, to hazard the total loss of the just superiority of Great Britain over her colonies.

Those who contended for the repeal were divided in opinion as to the right of taxation; the more numerous body, of whom were the ministry, insisted that the legislature of Great Britain had an undoubted right to tax the colonies; but relied on the inexpediency of the present tax, as ill adapted to the condition of the colonies, and built upon principles ruinous to the trade of Great Britain.

Those who denied the right of taxation, were not so numerous; but they consisted of some of the most distinguished and popular names in the kingdom, among which was that of a noble lord at the head of one of the first departments of the law, who, by some decisions favourable to liberty, stood high in the esteem of the public; and a right honourable commoner, who had long enjoyed the most unbounded popular applause, together with other lords and gentlemen of the first character.

Though the urgency of the matter occasioned the House to attend to it with the most unwearied application, and twelve, one, or two o'clock in the morning, were become common hours of dining with the members, so late it frequently was before they broke up from the public business; yet the nature of their enquiries, the number of petitions they received, and the multitude of papers and witnesses they had to examine, occasioned a delay which could not be remedied. During which time there were continual debates, and the opposition made the most strenuous efforts for enforcing the Stamp Act, and by every means to prevent the repeal. There were two questions arose in the course of this debate, upon which the whole turned. The first was, whether the legislature of Great Britain had a right of taxation over the colonies, or not? The second was confined to the expediency, or inexpediency of the late laws. We shall give some of the arguments that were made use of on both sides, without presuming to give any opinion of our own, which in this case will be the easier excused, as it has already been decided to general satisfaction, by the highest authority.

As to the right of taxation, the gentlemen who opposed it, produced many learned authorities from Locke, Selden, Harrington, and Puffendorf, shewing, 'that the very foundation and ultimate point in view of all government, is the good of the society.'

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That by going up to Magna Charta, and referring to the several writs upon record, issued out for the purpose of raising taxes for the crown, and for sending representatives to parliament, as well as from the Bill of Rights, it appears throughout the whole history of our constitution, that no British subject can be taxed but 'per communem consensum parliamenti,' that is to say, of himself, or his own representative; and this is that first and general right as British subjects, with which the first inhabitants of the colonies emigrated: for the right does not depend upon their charters: the charters were but the exterior modelling of the constitution of the colonies; but the great interior fundamental of their constitution is this general right of a British subject: which is the very first principle of British liberty,—No man shall be taxed, but by himself, or by his representative.

That the counties palatine of Chester, Durham, and Lancaster, were not taxed but in their own assemblies or parliament; till, at different periods in our history, they were melted into our present form of parliamentary representation. That the body of the clergy, till very late, taxed themselves, and granted the King benevolences.

That the marches of Wales had a right of taxing themselves till they sent members of parliament, and from this circumstance has continued the style of the king's proclamations, and of our acts of parliament to this day, although unnecessarily, to name especially the principality of Wales, and the town of Monmouth, as they do that of Berwick.

That many people carry the idea of a parliament too far, in supposing a parliament can do every thing; but that is not true, and if it were, it is not right constitutionally: for then there might be an arbitrary power in a parliament, as well as in one man.—There are many things a parliament cannot do. It cannot make itself executive, nor dispose of offices that belong to the crown. It cannot take any man's property, even that of the meanest cottager, as in the cases of inclosures, without his being heard. The Lords cannot reject a Money Bill from the Commons, nor the Commons erect themselves into a court of justice. The parliament could not tax the clergy, till such time as they were represented in parliament. Nor can the parliament of England tax Ireland.

The charters of the colonies, which are derived from prerogative, and are in fact only so many grants from the crown, are not the only rights the colonies have to being represented before they are taxed: they, as British subjects, take up their rights and liberties from an higher origin than their charters only. They take them up from the same origin and fountain, from whence they flow to all Englishmen, from Magna Charta, and the natural right of the subject. By that rule of right, the charters of the colonies, like all other crown grants, are to be restricted and interpreted, for the benefit, not the prejudice, of the subjects. Had the first inhabitants of the colonies renounced all connection with their mother country, they might have renounced their original right; but when they emigrated under the authority of the crown, and the national sanction, they went out from hence, at the hazard of their lives and fortunes, with all the first great privileges of Englishmen on their backs. But at the same time they were not, and could not be bound by penal laws of this country, from the severity of which they fled to climates remote from the heavy hand of power; and which they hoped to find more friendly to their principles of civil and religious liberty. It is upon this ground, that it has been universally received as law, that no acts of parliaments made here, and particularly those which enact any penalty, are binding upon the colonies, unless they are specially named.—The inhabitants of the colonies, once removed from the domestic legislation of the mother country, are no more dependent upon it in the general system, than the Isle of Man is, or than, in the feudal system of Europe, many subordinate principalities are dependent on the jurisdiction of the seigneur suzerain, or lord paramount; but owing only a limited obedience.

It is not meant by what has been said, to affect the case of any external duties laid upon their ports, or of any restrictions which by the Act of Navigation, or other acts, are laid upon their commerce; for they are in the same case, as all other colonies belonging to the rest of the maritime powers in Europe, who have shut up their colonies from all intercourse with foreign countries, in the very first establishment. What is spoken of are internal taxes, to be levied on the body of the people. And that, before they can be liable to these internal taxes, they must first be represented.

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Many other arguments were made use of, and instances were brought from ancient history of the conduct of some of the most famous republics, with respect to their colonies, as well as of colonies which outgrew their mother countries, such as Carthage, the northern emigrants, &c. Precedents were quoted from what happened in the United Netherlands, and other places, which should serve as a beacon, to warn us from pursuing such measures, as brought about those revolutions.

These arguments were answered with great force of reason, and knowledge of the constitution, from the other side. They observed it was necessary to clear away from the question, all that mass of dissertation and learning, displayed in arguments which have been brought from speculative men, who have written upon the subject of government. That the refinements upon that subject, and arguments of natural lawyers, as Locke, Selden, Puffendorf, and others, are little to the purpose in a question of constitutional law. That it is absurd to apply records from the earliest times to our present constitution; because the constitution is not the same: and nobody knows what it was at some of the times that are quoted: that there are things even in Magna Charta which are not constitutional now, and that those records are no proofs of our constitution as it now is.

The constitution of this country has been always in a moving state, either gaining or losing something: nor was the representation of the Commons of Great Britain formed into any certain system till Henry the 7th. That with regard to the modes of taxation, when we get beyond the reign of Edward the 1st, or king John, we are all in doubt and obscurity. The history of those times is full of uncertainties. In regard to the writs upon record, they were issued, some of them according to law; and some not according to law; and such were those concerning ship-money; to call assemblies to tax themselves, or to compel benevolences. Other taxes were raised by escuage, fees for knights service, and other means arising from the feudal system. Benevolences are contrary to law, and it is well known how people resisted the demands of the crown in the case of ship-money, and were prosecuted by the court. And if any set of men were to meet now, to lend the King money, it would be contrary to law, and a breach of the rights of parliament.

With respect to the marches of Wales, who were the borderers privileged, for assisting the king in his wars against the Welch, in the mountains; their enjoying this privilege of taxing themselves, was but of a short duration, and only during the life of Edward the first, till the prince of Wales came to be king: and then they were annexed to the crown, and became subject to taxes like the rest of the dominions of England; and from thence came the custom, though unnecessary, of naming Wales and the town of Monmouth in all proclamations and in acts of parliament. Henry the 8th was the first who issued writs for it, to return two members to parliament. The crown exercised the right 'ad libitum:' from whence arises the inequality of representation, in our constitution of this day: Henry the 8th issued a writ to Calais to send one burgess to parliament. One of the counties palatine was taxed 50 years to subsidies before it sent members to parliament.

The clergy at no time were unrepresented in parliament. When they taxed themselves in their assemblies, it was done with the concurrence and consent of parliament, who permitted them to tax themselves upon their petition, the convocation sitting at the same time with the parliament; they had their representatives too; always sitting in the House of Lords, bishops and abbots: and in the other House, they were at no time without a right of voting singly for the election of members. So that the argument fetched from the case of the clergy, is not an argument of any force, because they were at no time unrepresented.

The reasoning about the colonies of Great Britain, drawn from the colonies of antiquity, is a mere useless display of learning: for the colonies of the Tyrians in Africa, and of the Greeks in Asia, were totally different from our system. No nation before ourselves formed any regular system of colonization but the Romans; and their system was a military one, by garrisons placed in the principal towns of the conquered provinces. But the right of jurisdiction of the mother country over her colonies was, among the Romans, boundless and uncontrolable. The states of Holland were not colonies; but they were states dependent on the House of Austria, in a feudal dependence. Nothing could be more different from our colonies, than that shock of men (as they have been called) who came from the

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north, and poured into Europe. Those emigrants renounced all laws, all protection, all connection with their mother countries. They chose their leaders and marched under their banners, to seek their fortunes and establish new kingdoms upon the ruins of the Roman empire; whereas our colonies, on the contrary, emigrated under the sanction of the crown and parliament. They were modelled gradually into their present forms, respectively by charters, grants, and statutes: but they were never separated from the mother country, or so emancipated as to become *sui juris*.

There are several sorts of colonies in British America; the charter colonies, the proprietary governments, and the king's colonies. The first colonies were the charter colonies, such as the Virginia company, and these companies had among their directors, members of the privy council, and of both Houses of Parliament; they were under the authority of the privy council: and had agents residing here responsible for their proceedings. So much were they considered as belonging to the crown, and not to the king personally, (for there is a great difference, though few people attend to it), that when the two Houses, in Charles the first's time, were going to pass a Bill concerning the colonies, a message was sent to them by the king, that they were the king's colonies, and that the Bill was unnecessary; for that the privy council would take order about them: and the Bill never had the royal assent.

The commonwealth parliament, as soon as it was settled, were very early jealous of the colonies, separating themselves from them; and passed a resolution or act, (and it is a question whether it is not now in force) to declare and establish the authority of England over her colonies. But if there was no express law, or reason founded upon any necessary inference from an express law, yet the usage alone would be sufficient to support that authority. For have not the colonies submitted, ever since their first establishment, to the jurisdiction of the mother country? In all questions of property, the appeals of the colonies have been to the privy council here: and such causes have been determined, not by the law of the colonies, but by the law of England. The colonies have been obliged to recur very frequently to the jurisdiction here, to settle the disputes among their own governments. New Hampshire and Connecticut have been in blood about their differences; Virginia and Maryland were in arms against each other; this shews the necessity of one superior decisive jurisdiction, to which all subordinate jurisdictions may recur. Nothing could be more fatal to the peace of the colonies at any time, than the parliament giving up its authority over them: for in such a case there must be an entire dissolution of government. Considering how the colonies are composed, it is easy to foresee, that there would be no end of feuds and factions among the several separate governments, when once there shall be no one government here or there, of sufficient force or authority to decide their mutual differences; and government being dissolved, nothing remains, but that the several colonies must either change their constitution, and take some new form of government, or fall under some foreign power. At present the several forms of their constitution are very various, having been produced, as all governments have been originally, by accident and circumstances. The forms of government in every colony were adapted from time to time according to the size of the colony, and so have been extended again, from time to time, as the numbers of the inhabitants, and their commercial connections, outgrew the first model. In some colonies, at first there was only a governor, assisted by two or three council; then more were added: then courts of justice were erected, then assemblies were created.

Some things were done by instructions from the secretaries of state: other things were done by order of the king and council, and other things by commission under the great seal. It is observable in consequence of these establishments from time to time, and the dependency of these governments upon the supreme legislature at home, that the lenity of each government in the colonies has been extreme towards the subject; but if all these governments which are now independent of each other, should become independent of the mother country, it is to be feared the inhabitants would soon find to their cost how little they were aware of the consequences. They would very soon feel, in that case, the hand of power much heavier upon them in their own governments, than they have yet done, or than they have ever imagined.

As the constitutions of the several co-

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lonies are made up of different principles, so they must remain dependent (from the necessity of things and their relations) upon the jurisdiction of the mother country, or they must be totally dismembered from it. No one ever thought the contrary, till the trumpet of sedition has been lately blown. Acts of parliament have been made, not only without a doubt of their legality, but with universal applause, the great object of which has been ultimately to fix the trade of the colonies, so as to centre in the bosom of that country, from whence they took their origin. The Navigation Acts shut up their commerce with foreign countries. Their ports have been made subject to customs and regulations, which cramped and diminished their trade, and duties have been laid, affecting the very inmost parts of their commerce, and among others, that of the post; yet all these have been submitted to peaceably; and no one ever thought, till now, of this doctrine, that the colonies are not to be taxed, regulated, or bound by parliament. A few particular merchants then, as now, were displeased at restrictions, which did not admit them to make the greatest possible advantage of their commerce, in their own private and peculiar branches: but though these few merchants might think themselves losers in articles which they had no right to gain, as being prejudicial to the general national system; yet, upon the whole, the colonies were benefited by these laws, because these restrictive laws, founded upon principles of the most solid policy, flung a great weight of naval force into the hands of the mother country, which was to protect the colonies, and without an union with which the colonies must have been entirely weak and defenceless; instead of which they became relatively great, subordinately, and in proportion, as the mother country advanced in superiority over the rest of the maritime powers in Europe, to which both mutually contributed, and of which both have reaped the benefit, equal to the natural and just relation in which they both stand reciprocally, of dependency on one side, and protection on the other.

There can be no doubt but that the inhabitants of the colonies are as much represented in parliament, as the greatest part of the people of England are, among nine millions of whom, there are eight who have no votes in electing members of parliament: every objection therefore to the dependency of the colonies upon parliament, which arises to it upon the ground of representation, goes to the whole present constitution of Great Britain. A member of parliament chosen for any borough, represents not only the constituents and inhabitants of that particular place, but he represents the inhabitants of every other borough in Great Britain; he represents the city of London, and all other the commons of the land, and the inhabitants of all the colonies and dominions of Great Britain, and is in duty and conscience bound to take care of their interests.

The distinction of internal and external taxes, is as false and groundless as any other that has been made. It is granted, that restrictions upon trade, and duties upon the ports, are legal, at the same time that the right of the parliament of Great Britain to lay internal taxes upon the colonies is denied. What real difference can there be in this distinction? A tax laid in any place, is like a pebble falling into, and making a circle in a lake, till one circle produces and gives motion to another, and the whole circumference is agitated from the centre; for nothing can be more clear, than that a tax of ten or twenty per cent. laid upon tobacco, either in the ports of Virginia, or London, is a duty laid upon the inland plantations of Virginia 100 miles from the sea, wherever the tobacco grows.

Many other arguments were made use of. It was urged, that protection is the ground that gives a right of taxation. That the obligation between the colonies and the mother country, is natural and reciprocal, consisting of defence on the one side, and obedience on the other; and that common sense tells, that they must be dependent in all points upon the mother country, or else not belong to it at all. That the question is not, what was law, or what was the constitution? but the question is, what is law now, and what is the constitution now? That if a matter of right has been generally exercised, and as generally held to be law, as has been proved in numberless instances, without its ever having been questioned before, it is now the constitution. It was also observed, that the colonies had gone very great lengths; and it was even insisted, that by appointing deputies from their several assemblies to confer together, that they had absolutely forfeited their charters.

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No matter of debate was ever more ably and learnedly handled in both Houses. It was argued too with moderation and temper. The subject was of the highest importance, and it was not without difficulties, both constitutional and political, in the discussion, and in the consequences.

Upon the question being put, the power of the legislature of Great Britain over her colonies, in all cases whatsoever, and without any distinction in regard to taxation, was confirmed and ascertained, without a division. And this was, perhaps, the only question that could have been thought of, upon which the ministry and their antagonists in the opposition, would have gone together on a division.

The grand committee who had passed the Resolutions, on which the foregoing question was debated, had also passed another for the total repeal of the Stamp Act; and two Bills were accordingly brought in to answer these purposes. By the Resolutions on which the former was founded, it was declared, that tumults and insurrections of the most dangerous nature had been raised and carried on in several of the colonies; in open defiance of government, and in manifest violation of the laws and legislative authority of this kingdom. That these tumults and insurrections had been encouraged and inflamed, by several votes and resolutions which had passed in the assemblies of the said colonies, derogatory to the honour of government, and destructive to their legal and constitutional dependency on the crown and parliament, &c. By the Bill itself, all votes, resolutions, or orders, which had been passed by any of the general assemblies in America, by which they assumed to themselves the sole and exclusive right of taxing his Majesty's subjects in the colonies, were annulled, and declared contrary to law, derogatory to the legislative authority of parliament, and inconsistent with their dependency upon the crown.

The opposition, far from being dispirited, seemed to gather fresh vigour, and still opposed the repeal in every part of its progress. So many instances of the inexpediency of the stamp-duty had already occurred, that the question was scarcely controvertible; they accordingly changed their ground, and instead of entering into the merits of that part of the controversy, rested their principal defence upon the Resolutions, on which the late Bill for securing the dependency of the colonies had been founded.

They argued from thence, that the total repeal of the Stamp Act, while such an outrageous resistance continued, would, for the future, lessen the authority of Great Britain, and make it appear even contemptible. That such a submission of the supreme legislature, would be in effect a surrender of their ancient unalienable rights, to subordinate provincial assemblies, established only by prerogative; which in itself had no such powers to bestow. That a concession of this nature carried with it such an appearance of weakness and timidity in government, as may probably encourage fresh insults, and lessen the respect of his Majesty's subjects to the dignity of his crown, and the authority of the laws.

It was further advanced, that the power of taxation is one of the most essential branches of all authority; that it cannot be equitably or impartially exercised, if it is not extended to all the members of the state, in proportion to their respective abilities; but if a part are suffered to be exempt from a due share of those burdens, which the public exigencies require to be imposed upon the whole, such a partiality, so directly repugnant to the trust reposed by the people in every legislature, must be absolutely destructive of that confidence, on which all government should be founded.

The inability of the colonists to comply with the terms of the Stamp Act was also denied; and it was asserted, as an instance to the contrary, that of the debt contracted by them in the last war, 1,755,000*l.* has been already discharged, in the course of three years only; and that the much greater part of their remaining incumbrances, amounting in the whole to 760,000*l.* will be discharged in two years more.

Many other arguments were made use of; the general scope and tendency of which were to shew the heavy burdens with which the mother country was loaded; the ability of the Americans; their exemption from all manner of taxation; and their peremptory and refractory refusal, to contribute in any degree to the public expences.

It was said on the other side of the question, that the three first objections bore no manner of weight, as every consequence, they presumed, was already guarded against by the Bill for securing the dependence of the colonies; which had also sufficiently provided for the honour and

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dignity of Great Britain, and its constitutional superiority over them.

The propriety of all the parts contributing to the expences of the whole is readily admitted; the fact alleged by the other side, of the heavy debt contracted by the Americans, in the course of the war, sufficiently shews they contributed largely to the public expence; as their being repaid a part of it since, is also a convincing proof, that the parliament were of opinion, they had contributed beyond their abilities.

That nothing could be more remote from fact, than the assertion, that they paid no taxes. They even paid many which had been laid on by act of parliament; as they then paid a great variety of port duties, imposed previous to the Stamp Act; which lay very heavy upon their trade, and tended much to inflame their minds against that law. That they paid many port-duties imposed by provincial authority;——many excises;—a land-tax in many provinces;—a heavy poll-tax; besides a faculty-tax upon all personal estates and acquisitions, amounting in some provinces to 5 or 6*s.* in the pound. So that the assertion of their not contributing to the public expence, being false in fact, every argument, built upon so baseless a foundation, must of course fall to the ground.

It was also shewn, that most of the provinces in North America are notoriously poor;—that they were upwards of four millions in debt to the merchants of Great Britain; who, being creditors to such an amount, are in reality the proprietors of a great part of what the Americans seem to possess.

That the suppression of manufactures in that country, and obliging them to take every sort which they use from Great Britain, comprises all species of taxes in one, and makes them in reality the supporters of a great part of the public burdens.

That their great distance from hence, and the difficulty of making us thoroughly acquainted with the minute circumstances of every colony, renders us liable to great mistakes, and consequently to the hazard of great oppression, whenever we attempt to levy internal taxes in that country. That our true policy is to acquiesce in the great commercial advantages we derive from the Americans, rather than to attempt a revenue from thence; which, by disabling the people to make returns to our merchants, will put them under a necessity to set up manufactures of their own.—That by the former policy, America has been advantageous to us, and quiet in itself; but that the present state of things shews too evidently the ill effects of a contrary mode of acting.

These and many other arguments were made use of both within doors and without upon this interesting occasion; notwithstanding the vigour with which the opposition was supported, the Bill passed upon a division by a majority of 275 to 161, and was carried up to the Lords by above 200 members of the House of Commons. The *eclât* with which it was introduced in the upper House, did not prevent its meeting with a strong opposition there; 33 lords entered a protest against it at the second reading; as 28 did at the third: it was however carried through by a majority of 34 lords, and in three days after received the royal assent. An event that caused more universal joy, throughout the British dominions, than perhaps any other that can be remembered.

Repeal of the Cyder Tax.] February 26. Several Petitions were presented to the Commons from the counties of Hereford, Worcester, Gloucester, Devon, Somerset, Cornwall, Monmouth, the city and county of Exeter, the city of Hereford, and from several of the boroughs in those counties; representing in general, that the petitioners were subject to many grievances, by so much of two several acts passed in the 3d and 4th years of the reign of his present Majesty, which lays an additional duty on cyder and perry, both with respect to the tax itself, and to the mode of collecting it under the power of the excise laws; and praying relief, by a repeal of the said Acts, so far as the same relate to the laying a duty on the makers of cyder and perry, or in such other manner as the House should think meet. These Petitions were severally ordered to lie upon the table, and then several accounts relating to the late additional tax upon these liquors were ordered to be laid before the House, which were afterwards presented; and on the 5th of March there was presented to the House, a Petition to the same effect with the former, from the borough of Weobly in Herefordshire.

March 7. As soon as the order of the day was read for the House to resolve itself into a Committee of Ways and Means, after an instruction had been ordered to the said Committee to consider of the laws

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relating to cyder and perry, all the said Petitions, and also all the accounts relating to cyder and perry, that had been called for and presented in this session, were ordered to be referred to the same; in consequence of which, the Committee came to the six Resolutions which were on the 10th reported by Mr. Cornwall, and agreed to by the House, whereupon it was ordered, that a Bill be brought in upon the said Resolutions.

March 11. Mr. Cornwall presented to the House a Bill for repealing the duties granted upon cyder and perry, by an Act made in the third year of his present Majesty's reign, and for granting certain duties on cyder and perry in lieu thereof, and for the more effectual securing the duties on cyder and perry imposed by several former acts; when the Bill was read a first time, and ordered to be read a second time, which it was the day following, and committed to a Committee of the whole House for the next day. And so thoroughly had many gentlemen changed their sentiments with regard to this tax, or at least with regard to the mode of raising it, that this Bill afterwards passed through both Houses, and received the royal assent on the 11th of April, without meeting with any considerable opposition in any part of its progress.

*Proceedings relating to General Warrants and the Seizure of Papers.**] April 22. The House was moved, 1. That the proceedings of the House, of the 14th of February, 1764, in relation to the question proposed, "That a General Warrant for apprehending and seizing the authors, printers, and publishers, of a seditious libel, together with their papers, is not warranted by law;" and also in relation to the discharge of the complaint against Robert Wood, esq., Philip Carteret Webb, esq., members of this House, John Money, Robert Blackmore, and James Watson, for a breach of the privilege of this House, might be read. 2. That the proceedings of the House, of the 17th of the said month, when the House resumed the adjourned debate upon the said question, That a General Warrant for apprehending and seizing the authors, printers, and publishers, of a seditious libel, together with their papers, is not warranted by law, might be read. 3. That the proceedings of the House, of the 29th of January, 1765, in relation to the question proposed, That a General Warrant for apprehending the authors, printers, or publishers of a libel, together with their papers, is not warranted by law, and is an high violation of the liberty of the subject, might be read. —And the same being read accordingly;

A motion was made, and the question being proposed, "That a General Warrant to apprehend the author, printer, or publisher, of a libel, is illegal: and, if executed on the person of a member of this House, is also a breach of the privilege of this House;" and the previous question being put, that that question be now put: the House divided; Yeas 173: Noes 71. So it was resolved in the affirmative. Then the main question being put;

Resolved, "That a General Warrant for apprehending the author, printer, or publisher, of a libel, is illegal; and, if executed on the person of a member of this House, is also a breach of the privilege of this House."

A motion was made, and the question was proposed, "That General Warrants, not expressing the offence, and naming, or describing the offender, are in all cases illegal unless authorized by act of parliament; and that such warrant, if executed upon a member of this House, is a breach of the privilege of this House." And the said motion was, with leave of the House, withdrawn.

A motion was made, and the question being proposed, "That the seizing or taking away the papers, of the author,

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* "The question of General Warrants was resumed under the auspices of the ministry, and occasioned several debates and motions. It was at length resolved, after various amendments, that 'a General Warrant for seizing and apprehending any person or persons, being illegal, except in cases provided for by the act of parliament, is, if executed on a member of the House of Commons, a breach of privilege.' A Bill to restrain the issuing of warrants for seizing papers, except in cases of treason or felony without benefit of clergy, under certain regulations, went through the House of Commons, but was thrown out by the Lords. An attempt was made to introduce another Bill, for preventing the seizure of persons by General Warrants, but failed of success. The result of these proceedings was merely this; the House of Commons agreed with the judges on the illegality of apprehending any person by a general warrant, in cases of mere constructive delinquency, and therefore declared that a member of parliament so illegally apprehended, had a right to complain of a breach of privilege." Adolphus.

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printer, or publisher, of a libel, or the supposed author, printer, or publisher, of a libel, is illegal; and that such seizing or taking away the papers of a member of this House, is a breach of the privilege of this House;" and the previous question being put, that that question be now put, it was resolved in the affirmative.

Then the main question being put;

Resolved, "That the seizing or taking away the papers, of the author, printer, or publisher, of a libel, or the supposed author, printer, or publisher, of a libel, is illegal; and that such seizing or taking away the papers of a member of this House, is a breach of the privilege of this House."

April 25. A motion was made, and the question being proposed, That a General Warrant for seizing and apprehending any person or persons being illegal, is, if executed upon a member of this House, a breach of the privilege of this House;

The House was moved, that the resolution of the House, of Tuesday last, "That a General Warrant for apprehending the author, printer, or publisher, of a libel, is illegal; and, if executed on the person of a member of this House, is also a breach of the privilege of this House;" might be read. And the same being read accordingly; an amendment was proposed to be made to the question, by inserting, after the word "illegal," these words, "except *in cases* provided for by act of parliament." And the said amendment was, upon the *question* put thereupon, agreed to by the House.

Then the main question, so amended, being proposed, "That a General Warrant for seizing and apprehending any person or persons being illegal, except in cases provided for by act of parliament, is, if executed upon a member of this House, a breach of the privilege of this House;" and the previous question being put, that that question be now put; it was resolved in the affirmative.

April 29. It was moved and ordered, that leave be given to bring in a Bill to restrain the issuing of any warrant, for seizing papers, except in the cases of treason or felony without benefit of clergy, under certain regulations; and that Mr. Grenville, Mr. Wedderburn, the Master of the Rolls, and Mr. Pitt, do prepare and bring in the same. Then after having had the resolution of the 25th again read, a motion was made for leave to bring in a Bill, to declare all General Warrants, for seizing and apprehending any person or persons, to be illegal, except in cases provided for by act of parliament, agreeably to the said resolution; but upon the question being put, it was carried in the negative.

May 2. Mr. Grenville presented the Bill to the House, when it was received, and read a first time. On the 6th it was read a second time, and committed for the 9th, on which day, a motion was made for resolving, that the House would, on that day two months, resolve itself into a Committee of the whole House, upon the said Bill; but, upon the question being put, it was carried in the negative, whereupon Mr. Bacon was ordered to take the chair of the said committee, into which the House then resolved itself, as it did again on the 12th, when Mr. Bacon reported from the committee, that they had gone through the Bill, and made several amendments thereunto, which they had directed him to report, when the House would please to receive the same; and the report being ordered to be received the next morning, the amendments were then all agreed to, one of which was almost a total alteration of the title; for the Bill was now intitled, 'A Bill to prevent the inconveniencies and dangers to the subject from searching for and seizing papers, by establishing proper regulations, in such cases where searching for and seizing papers is justifiable by law.' This being now the title, the Bill, with the amendments, was on the 14th read a third time, passed, and carried to the Lords, who refused to give it their consent.

The King's Message respecting a Provision for the Princess Caroline Matilda, and for the Dukes of York and Gloucester.] June 3. The Chancellor of the Exchequer brought down to the Commons the following Message from his Majesty.

"GEORGE *R.*

"His Majesty having, in consequence of the agreement mentioned in his Speech at the opening of the session of parliament, received application from the present king of Denmark, for the solemnization of his Marriage with his Majesty's sister the princess Caroline Matilda, has thought proper to inform this House that the Marriage may probably be solemnized before the next session of parliament; and as his

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Majesty can have no doubt, that this alliance with so respectable a Protestant prince will be to the satisfaction of all his good subjects, he promises himself the concurrence and assistance of this House, in enabling him to give such a portion with his sister, as may be suitable to the honour and dignity of his crown.

"His Majesty had intentions to have recommended, at the same time, to the consideration of this House, the making of some proper provision for the honourable support and maintenance of his dearly beloved brothers, the dukes of York and Gloucester, and prince Henry Frederic; but, as the season of the year is greatly advanced, and it is necessary to grant a recess to his parliament, by a speedy conclusion of the session, his Majesty will defer the making of such recommendation until the next meeting for the dispatch of business; and is assured, from his experience of the affection of his faithful Commons to himself and his family, that they will readily and cheerfully enter into the consideration of that matter, when the same shall be laid before them. G. *R.*"

The Commons' Address thereon.] A motion was made, "That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House, for his most gracious Message, communicating to this House, the application made on the part of the king of Denmark, to perfect a former agreement, by the solemnization of the marriage of the said king, with his Majesty's sister the princess Caroline Matilda; to renew the dutiful congratulations of this House, upon the intended union with so respectable a Protestant prince; and to assure his Majesty, that this House will enable his Majesty to give such a portion with her royal highness, as shall demonstrate the zeal, duty, and affection of this House to his Majesty, and a just regard to the honour and dignity of his royal family; to assure his Majesty, that his faithful Commons will readily and cheerfully take into their consideration the matter mentioned in his Majesty's Message, relating to the support and maintenance of his Majesty's royal brothers, whenever it shall please his Majesty to recommend the same."

The House was moved, that the Resolution of the House, of the 18th of February, 1667, might be read. And the same was read accordingly, as follows:

Resolved, "That, if any motion be made in the House, for any public aid or charge upon the people, the consideration and debate thereof ought not presently to be entered upon, but adjourned till such further day as the House shall think fit to appoint; and then it ought to be referred to the committee of the whole House, and their opinions to be reported thereupon, before any resolution or vote of the House do pass therein."

The House was also moved, that the Resolutions of the House, of the 24th of February, 1707, relating to the disposition of public money, might be read. And the same were read accordingly, as follow:

Resolved, 1. "That no public money be granted by debentures, or otherwise, but by a committee of supply. 2. That no disposition of the public money be made, or private Bill relating to the same be read, but on a day to be appointed for that purpose."

The House was also moved, that the entry in the Journal of the House, of the 8th of May, 1733, in relation to the Message from his Majesty to this House, with respect to the proposals for a treaty of marriage between the prince of Orange and the Princess Royal, and also the Address of this House thereupon, might be read. And the same was read accordingly.

The House was also moved, that the entry in the Journal of the House, of the 13th of November, 1761, with respect to so much of his Majesty's most gracious Speech from the throne as relates to this marriage with the Queen, and also the Address of this House of the 14th of the same month, thereupon, might be read. And the same being read accordingly;

An Amendment was proposed to be made to the question, by leaving out the words, "enable his Majesty to give such a portion with her royal highness," and insert, "enter into the immediate consideration of this important affair in such a manner." And the question being put, that the words proposed to be left out, stand part of the question; the House divided: Yeas 118; Noes 35. So it was resolved in the affirmative.

Then another Amendment was proposed to be made to the question, by inserting after the words "her royal highness," these words, "and also to make such immediate provision for the honourable support and maintenance of his royal brothers," in order to leave out from the words "royal family," to the end of

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the question. And the question being put, that these words be there inserted; the House divided: Yeas 31; Noes 109. So it passed in the negative. Then the main question being put, was carried.

Supplies granted for the Year 1766.] The following Supplies were granted for the service of the year 1766:

	£.	s.	d.
JANUARY 27, 1766.			
That 16,000 men be employed for the sea-service for 1766, including 4,287 marines.			
That a sum not exceeding 4*l.* per man per month be allowed for maintaining them for 13 months, including ordnance for sea-service	832,000	0	0
FEBRUARY 15.			
That a number of land forces, including 2,513 invalids, amounting to 17,306 effective men, commission and non-commission officers included, be employed for 1766.			
That, for defraying the charge of this number for guards, garrisons, and other his Majesty's land forces in Great Britain, Guernsey, and Jersey, 1766, there be granted to his Majesty a sum not exceeding	605,608	12	9
For the pay of the general and general staff officers in Great Britain for 1766	11,391	8	6½
For maintaining his Majesty's forces and garrisons in the Plantations and Africa, including those in garrison at Minorca and Gibraltar, and for provisions for the forces in North America, Nova Scotia, Newfoundland, Gibraltar, the ceded islands, and Africa, for 1766	392,183	6	5½
Towards the same service out of the monies, or savings, remaining of the grant by the third resolution of April 20th, in the preceding session	2,321	13	10½
For defraying the charge of the difference of pay between the British and Irish establishment of two corps of light dragoons, and of six regiments of foot, serving in the Isle of Man, at Gibraltar, Minorca, and the ceded islands, for 1766	7,993	11	4
For paying the pensions to the widows of reduced land and marine officers, married to them before the 25th Dec. 1716, for 1766	1,614	0	0
Upon account of the reduced land and marine officers, for 1766	138,674	0	0
For defraying the charge of full pay to officers reduced, with the 10th company of several battalions reduced from ten to nine companies, and who remained on half pay at the 24th Dec. 1765, for 1766	5,718	6	8
Upon account towards defraying the charge of out pensioners of Chelsea hospital, for 1766	109,875	16	8
For the charge of the office of ordnance for land service, for 1766	180,445	19	3
For defraying the expence of services performed by the office of ordnance, for land service, and not provided for by parliament, in 1765	35,061	6	2
Towards enabling the trustees of the British Museum, to carry on the execution of the trust reposed in them by parliament	2,000	0	0
	1,492,788	9	8½
FEBRUARY 18.			
For the ordinary of the navy, including half pay to sea and marine officers, for 1766	412,983	6	3
Towards the buildings, rebuildings, and repairs of his Majesty's ships, docks, building ships, wharfs, and store houses, for 1766	277,300	0	0
	690,283	6	3
MARCH 13.			
Towards defraying the extraordinary expence of his Majesty's land forces, and other services incurred to the 24th Jan. 1766, and not provided for by parliament	404,310	16	6½
Out of the monies, or savings, arising from the pay of the land forces in the hands of the pay-master-general, towards defraying the extraordinary expences of his Majesty's land forces, and other services, incurred to the 24th Jan. 1766, and not provided for by parliament	74,777	14	0
For paying off and discharging the exchequer bills, made out by virtue of the act 4 Geo. 3, c. 25, and charged upon the first aids to be granted by parliament for 1766	1,000,000	0	0
For paying off and discharging the exchequer bills made out, by virtue of the act passed in the preceding session, c. 19, and charged upon the first aids to be granted in this session	800,000	0	0
To replace to the Sinking Fund the like sum paid out of the same, to make			

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good the deficiency on the 5th July, 1765, of the several rates and duties upon offices and pensions, &c. which were made a fund by the act 31 Geo. 2, c. 22, for paying annuities at the Bank, in respect of 5,000,000*l.* borrowed for 1758	45,561	7	10½
To replace to ditto the like sum issued thereout, for paying annuities, after the rate of 4*l.* per cent. for the year ended the 26th Sept. 1765, which were granted in respect of certain navy, victualling, and transport bills, and ordnance debentures, delivered in, and cancelled, pursuant to the act 3 Geo. 3, c. 9	139,342	2	4
To replace to ditto, the like sum issued thereout, for paying the charges of management of the said annuities, for two years and one half, due 29th Sept. 1765	4,898	14	9½
To replace to ditto, the like sum paid out of the same, to make good the deficiency, on the 10th Oct. 1765, of the several additional duties upon wines imported, and certain duties on all cyder and perry, which were made a fund, by act 3 Geo. 3, c. 12, for paying annuities, in respect of 350,000*l.* borrowed for 1763	29,211	12	0
Upon account, for maintaining and supporting the civil establishment of Nova Scotia for 1766	4,866	3	5
Upon account, of sundry expences for the service of Nova Scotia, in 1750, 1751, 1752, 1762, 1763, not provided for by parliament	8,008	12	7
Upon account, for defraying the charges of the civil establishment of Georgia, and other incidental expences attending the same, from the 24th June 1765, to 24th June 1766	3,986	0	0
Upon account, for defraying the charges of the civil establishment of East Florida, for the same time	5,250	0	0
Upon account, for defraying the charges of the civil establishment of West Florida, for the same time	5,300	0	0
Upon account, for defraying the expence attending general surveys of his Majesty's dominions in North America for 1766	1,784	4	0
Upon account, for defraying the charges of the civil establishment of Senegambia, for 1766	5,550	0	0
	2,532,847	8	0½
March 18.			
To replace to the Sinking Fund the like sum, issued thereout, to discharge from the 29th Sept. 1765, to the 25th Dec. following, the annuities attending such part of the joint stock, established by act 3 Geo. 3, c. 9, in respect of several navy, victualling, and transport bills, and ordnance debentures as were redeemed in pursuance of the act of last session, c. 23.	8,708	17	7½
Upon account, for defraying the charge of the pay and clothing of the militia, for one year, beginning the 25th March 1766	150,000	0	0
	158,708	17	7½
March 24.			
To be employed in maintaining and supporting the British forts and settlements on the coast of Africa, under the direction of the committee of merchants trading to Africa	13,000	0	0
March 27.			
Upon account, to enable his Majesty to discharge such unsatisfied claims and demands for expences incurred during the late war in Germany, as appear to be due by the reports of the commissioners, appointed by his Majesty, for examining and stating such claims and demands	106,043	13	8½
Upon account, to enable his Majesty to complete the payment of the money stipulated by treaty to be paid to the landgrave of Hesse Cassel, in extinction of all demands, under the title of reasonable succour or otherwise	50,000	0	0
Upon account, towards enabling the Foundling Hospital to maintain and educate such children as were received into the same, on or before the 25th March 1760, from the 31st Dec. 1765 exclusive, to 31st 1766, inclusive, to be issued and paid for the said use, without fee or reward, or any deduction whatsoever	32,725	0	0
And further for the said use and to be issued in the same manner upon account, the monies remaining unissued of those granted in the last session, for the use of the said hospital, amounting to	1,167	10	0
	189,936	3	8½
April 10.			
Towards paying off and discharging the debt of the navy	1,200,000	0	0

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That one-third part of the remaining capital stock of annuities, after the rate of 4*l.* per cent. per annum, granted in respect of certain navy, victualling, and transport bills, and ordnance debentures, delivered in and cancelled, pursuant to an act of Geo. 3, c. 9, be redeemed, and paid off, on the 25th Dec. next, after discharging the interest then payable in respect of the same.			
To enable his Majesty to redeem, and pay off, one-third part of the capital stock of the said annuities	870,888	5	5½
April 14.	2,070,888	5	5½
To make good the deficiency of the grants for the service of 1765	292,828	0	4½
Total of the Supplies granted this Session	8,273,280	11	1½

Ways and Means *for the Year* 1766.] The following are the Resolutions of the Committee of Ways and Means:

Jan. 31, 1766. That the usual temporary duties upon malt, &c. be continued from the 23rd June, 1766, to the 24th June, 1767, 750,000*l.*

Feb. 21. 1. That the usual land tax of 4*s.* in the pound be continued for one year, from the 25th March, 1766, 2,037,824*l.* 15*s.* 11*d.*

2. That provision be made, to remove all doubts concerning the ascertaining of the duties payable upon the importation of linen cloth of the manufacture of Russia, in pursuance of the act of last session, chap. 43, and for supplying an omission in the said act, by declaring that all unrated linen cloth and diaper of Russia, being in breadth more than 22½ inches, and not 31½ inches, were by the said act intended to be rated at 4*l.* for every 120 English ells thereof.

March 10. 1. That the duties granted upon cyder and perry by the act of Geo. 3, c. 12, shall from and after the 5th of July next ensuing, cease, determine, and be no longer paid.

2. That, from and after the said 5th July, an additional duty of 6*s.* per hogshead, be laid upon all cyder and perry, which shall be made within this kingdom, and sold by retail, to be paid by the retailer thereof.

3. That, from and after the said 5th July, an additional duty of 3*l.* per ton, be laid upon all cyder and perry, which shall be imported into this kingdom.

4. That, from and after the said 5th July, a duty of 16*s.* 8*d.* per hogshead, be laid upon all cyder and perry, which shall be made within this kingdom, and sent or consigned to, and received by, any factor or agent, to be sold or disposed of, the said duty to be paid by such factor or agent.

5. That, from and after the said 5th July, a duty of 6*s.* per hogshead, be laid upon all cyder and perry, made for sale within this kingdom, by dealers in, or retailers of cyder, or perry, from fruit of their own growth, to be paid by such dealers and retailers.

6. That the said duties be appropriated unto such uses and purposes, as the duties granted by the said act, made in the 3rd year of his present Majesty's reign, were thereby made applicable.

March 18. That the sum of 1,800,000*l.* be raised by loans, or exchequer bills, to be charged upon the first aids to be granted in the next session of parliament, and such exchequer bills, if not discharged, with interest thereupon, on or before the 5th of April, 1767, to be exchanged and received in payment, in such manner as exchequer bills have usually been exchanged and received in payment.

April 21. 1. That towards the supply granted to his Majesty, the sum of 1,500,000*l.* be raised in manner following: that is to say, the sum of 900,000*l.* by annuities, after the rate of 3*l.* per cent., to commence from the 5th January last: and the sum of 600,000*l.* by a lottery, to consist of 60,000 tickets, every blank to be of the value of 6*l.*; the blanks and prizes to be attended with the like 3 per cent. annuities, to commence from the 5th of January, 1767; and that all the said annuities be transferrable at the bank of England, be paid half yearly, on the 5th July, and the 5th January, in every year, out of the sinking fund, and be added to, and made part of, the joint stock of 3*l.* per cent. annuities, which were consolidated at the bank of England, by certain acts, made in the 25th and 28th years of the reign of his late Majesty, and several subsequent acts, subject to redemption by parliament. That every contributor towards the said sum of 900,000*l.* after his making the deposit hereinafter mentioned, shall, in respect of every 60*l.* of his

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contribution to such sum, be entitled to receive four tickets in the said lottery, upon payment of 10*l.* for each ticket; and that every contributor, towards the said sum of 900,000*l.* shall, on or before the 8th of May next, make a deposit, with the cashiers of the bank of England, of 15*l.* per cent., in part of the monies so to be contributed, as a security for making the future payments to the said cashiers, on or before the times hereinafter limited.

And that all the monies, received by the said cashiers, be paid into the receipt of his Majesty's exchequer, to be applied, from time to time, to such services as shall then have been voted, by this House, in this session of parliament, and not otherwise; and that every contributor, who shall pay in the whole of his contribution, on account of his share in the annuities attending the said sum of 900,000*l.* at any time on or before the 13th of October next, or on account of his share in the said lottery, on or before the 14th July next, shall be allowed an interest, by way of discount, after the rate of 3*l.* per cent. per ann. on the sum so completing his contribution respectively, to be computed from the day of completing the same to the 15th of Nov. next, in regard of the sum paid on account of the first mentioned annuities, and to the 15th Sept. next, in respect of the sum paid on account of the said lottery.

2. That the several rates and duties, now payable upon houses, in Great Britain, do cease and determine from and after the 10th October, 1766.

3. That, from and after the 10th Oct. 1766, there shall be paid for and upon every dwelling-house, inhabited, which now is, or hereafter shall be erected, within that part of Great Britain called England, the yearly sum of 3*s.*

4. That, from and after the said 10th Oct., 1766, there shall be paid, for and upon every dwelling-house, inhabited, which now is, or hereafter shall be erected, within that part of Great Britain called Scotland, the yearly sum of 1*s.*

5. That the several rates and duties, now payable for windows or lights, in Great Britain, do cease and determine from and after the said 10th Oct., 1766.

6. That, from and after the said 10th Oct., 1766, there shall be paid for every window, or light, in every dwelling house, inhabited, or to be inhabited, within the kingdom of Great Britain, which shall contain seven windows, or lights, and no more, the yearly sum of 2*d.* for each window, or light, in such house.

7. That from and after the said 10th Oct., 1766, there shall be paid for every window, or light, in every dwelling house, which shall contain eight windows, or lights, and no more, the yearly sum of 6*d.* for each window, or light, in such house.

8. That from and after the said 10th Oct., 1766, there shall be paid for every window, or light, in every such dwelling house, which shall contain nine windows, or lights, and no more, the yearly sum of 8*d.* for each window, or light, in such house.

9. That from and after the said 10th Oct., 1766, there shall be paid for every window, or light, in every such dwelling house, which shall contain ten windows, or lights, and no more, the yearly sum of 10*d.* for each window, or light, in such house.

10. That from and after the said 10th Oct. 1766, there shall be paid for every window, or light, in every such dwelling house, which shall contain eleven windows, or lights, and no more, the yearly sum of 1*s.* for each window, or light, in such house.

11. That from and after the said 10th Oct., 1766, there shall be paid for every window, or light, in such dwelling house, which shall contain twelve windows, or lights, and no more, the yearly sum of 1*s.* 2*d.* for each window, or light, in such house.

12. That from and after the said 10th Oct., 1766, there shall be paid for every window, or light, in every such dwelling house, which shall contain thirteen windows, or lights, and no more, the yearly sum of 1*s.* 4*d.* for each window or light, in such house.

13. That from and after the said 10th Oct., 1766, there shall be paid for every window, or light, in every such dwelling house, which shall contain 14, 15, 16, 17, 18, or 19 windows, or lights, and no more, the yearly sum of 1*s.* 6*d.* for each window, or light, in such house.

14. That from and after the said 10th Oct., 1766, there shall be paid for every window, or light, in every such dwelling house, which shall contain 20 windows, or lights, and no more, the yearly sum of 1*s.* 7*d.* for each window, or light, in such house.

15. That from and after the said 10th

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Oct., 1766, there shall be paid for every window, or light, in every such dwelling house, which shall contain 21 windows, or lights, and no more, the yearly sum of 1*s.* 8*d.* for each window or light in such house.

16. That from and after the said 10th Oct. 1766, there shall be paid for every window, or light, in every such dwelling house, which shall contain 22 windows, or lights, and no more, the yearly sum of 1*s.* 9*d.* for each window or light in such house.

17. That from and after the said 10th Oct. 1766, there shall be paid for every window, or light, in every such dwelling house, which shall contain 23 windows, or lights, and no more, the yearly sum of 1*s.* 10*d.* for each window or light in such house.

18. That from and after the said 10th Oct. 1766, there shall be paid for every window, or light, in every such dwelling house, which shall contain 24 windows, or lights, and no more, the yearly sum of 1*s.* 11*d.* for each window or light in such house.

19. That from and after the said 10th Oct. 1766, there shall be paid for every window, or light, in every such dwelling house, which shall contain 25 windows, or lights, or upwards, the yearly sum of 2*s.* for each window or light in such house.

20. That out of the said rates and duties there be set apart and applied to the general or aggregate fund, the yearly sum of 91,485*l.* 6¾*d.* in lieu of the like sum, which, by an act made in the 20th year of the reign of his late Majesty, was directed to be set apart and applied to the said fund, out of the said rates and duties upon houses, and windows or lights thereby granted.

21. That there be also set apart out of the said rates and duties, the yearly sum of 93,217*l.* 10*s.* 1½*d.*, which appears to have been the annual produce, upon a medium of six years last past, of certain rates and duties upon houses, and windows or lights, granted by an act made in the 31st year of his said late Majesty's reign; and that such yearly sum be applied towards payment of the annuities, established by the said act.

22. That the residue of the produce of the said rates and duties be carried to the sinking fund, in lieu of such part of the said duties so to cease and determine, as were applicable to such fund, and also, for making good to the same, the payments to be made thereout, of the annuities attending the sum of 1,500,000*l.*

23. That towards raising the supply granted to his Majesty, there be issued and applied, the sum of 215,000*l.* out of such monies as have arisen, and shall or may arise, of the surplus monies; and other revenues composing the fund, commonly called the sinking fund.

April 29. 1. That the sum of 80,000*l.* remaining in the receipt of the Exchequer, which was granted to his Majesty in the last session of parliament, upon account for defraying the charge of the pay and clothing of the militia for one year, beginning the 25th March, 1765, be issued and applied towards raising the supply granted in this session.

2. That a sum not exceeding 181,000*l.* of the monies agreed to be paid by a convention between his Majesty and the French king, concluded and signed at London, the 27th Feb. 1765, for the maintenance of the late French prisoners of war, be applied to ditto.

3. That such of the monies remaining in the receipt of the Exchequer, for the disposition of parliament, and as shall be paid into the said receipt on or before the 5th of April, 1767, of the produce of the duties charged by an act made in the last session of parliament, upon the importation and exportation of gum senega and gum arabic, be applied to ditto.

4. That a sum, not exceeding 60,000*l.* of such monies remaining in the receipt of the Exchequer, for the disposition of parliament, and as shall be paid into the said receipt on or before 5th April, 1767, of the duties granted or continued, by an act made in the 4th year of his Majesty's reign, as were thereby reserved to be disposed of by parliament, towards defraying the necessary expences, of defending, protecting, and securing the British colonies and plantations in America, be applied to ditto for maintaining his Majesty's forces and garrisons in the plantations, and for provisions for the forces in North America, Nova-Scotia, Newfoundland and the ceded islands, for 1766.

5. That provision be made, for declaring that the additional duties granted by an act made in the 3d year of his present Majesty's reign, upon wines imported, were by the said act, intended, and ought, to be paid without any discount or deduction inwards, or drawback on re-exportation.

May 5. 1. For continuing the 19th

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clause of act 9 and 10 Will. 3, c. 26, and the proviso in the 5th clause of the act 12 Anne, stat. 1, c. 18. 2. For continuing the first 24 clauses of the act 8 Geo. 1, c. 15. 3. For continuing the act, 2 Geo. 2, c. 35, as amended by the act 25 Geo. 2, c. 35. 4. For continuing the act 5 Geo. 2, c. 24; except such part thereof as relates to the importation and exportation of foreign coffee into and from the British colonies in America. 5. For continuing the act 19 Geo. 2, c. 27. 6. That liberty be granted to export coals from Great Britain to the islands of Guernsey, Jersey, and Alderney, annually, free of the duty laid upon all coals exported, by the act of last session chap. 35. viz. to Guernsey any quantity of coals not exceeding 1,000 chaldrons, Newcastle measure, from the port of Newcastle, and 150 such chaldrons from Swansey; to Jersey 350 from Newcastle, and 150 from Swansey; and to Alderney 110 from Newcastle, and 10 from Swansey.

May 8. 1. That provision be made for declaring, that the power granted by the act, 2 Geo. 3, c. 5, to remove spirits made for exportation to warehouses for home consumption, should extend to such spirits only, as are made from corn, malt, or molasses.

2. That from and after the 1st of August, 1766, there be paid to his Majesty, upon every pound weight avoirdupois of Italian wrought silks, called crapes or financies, imported, a duty of 17*s.* 6*d.* to be paid by the importer, over and above all duties now payable thereon; and that the produce of the said duty be carried to the sinking-fund.

3. That a quantity not exceeding 30 tons weight, in any one year, of gum senega and arabic, be allowed to be exported, free of duty, under proper regulations and restrictions, to Ireland, for the use of the manufactures there.

4. That authority be given to permit, under proper limitations and restrictions, the importation into this kingdom, from the Isle of Man, of such bugles as were brought into the said isle before the 1st of March, 1765, on payment of one half of the old subsidy only.

May 10. 1. That all the duties now payable on the importation of cotton wool into this kingdom do cease and determine. 2. That a duty of 3*s.* per piece be laid upon all such foreign linen cloth, called cambric, and upon French lawns, which shall be exported into this kingdom to the British colonies and plantations in America. 3. That the duties imposed by an act made in the last session of parliament, upon the exportation from this kingdom, of wrought silks, Bengals, and stuffs mixed with silk or herba, of the manufacture of Persia, China, or East-India, and callicoes, printed, dyed, painted or stained there, do cease and determine. 4. That there be granted to his Majesty, on all such wrought silks, Bengals, and stuffs mixed with silk or herba, of the manufacture of Persia, China, or East-India, and callicoes, printed, dyed, painted, or stained there, as shall have been publicly sold in this kingdom, on or before a certain day, to be limited, a subsidy of poundage after the rate of 1*s.* for every 20*s.* of the value of such goods, according to the gross price at which the same were originally sold, at the public sales thereof, such subsidy to be paid by the proprietors of the said goods. 5. That there be granted to his Majesty a like subsidy upon all such wrought silks, Bengals, stuffs, and callicoes, as shall be publicly sold, on or after such day to be limited, the said subsidy to be paid by the East India Company, for such of the said goods as shall be sold at their public sales, and by the buyer of the said goods, at any other public sale. 6. That the monies arising by the said subsidies, be appropriated in like manner as the duties granted by the said act were thereby appropriated. 7. That all sugars which shall be imported into this kingdom, from any British colony or plantation, on the continent of America, be made subject to the like duties as are now payable upon the importation of French sugars.

May 14. 1. That for every gallon of single brandy spirits, or aqua vitæ imported into Great Britain from beyond the seas, not being the produce of the British colonies and plantations, there be paid by the importer, before landing, an additional duty of 6*d.*

2. That for every gallon of brandy spirits, or aqua vitæ, above proof, commonly called double brandy, imported into Great Britain from beyond the seas, not being the produce of the said colonies and plantations, there be paid by the importer, before landing, an additional duty of 1*s.*

3. That the said duties be applied to the same uses, as the duties laid on brandy spirits and aqua vitæ by the act 33 Geo. 2, ch. 9, are now applicable.

4. That for encouraging the exportation of hempen cordage manufactured in Great

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Britain, from hemp imported from foreign parts, and also from hemp of the growth of Great Britain, there be allowed upon the exportation thereof, a bounty of 2*s.* 4*d.*$\frac{3}{4}$ for every hundred weight of such cordage so exported; the said bounty to be paid upon the exportation, out of the net duties which have been, or shall be, paid upon the importation of all foreign hemp into this kingdom.

5. That for encouraging the exportation of hempen cordage manufactured in Great Britain, the drawback of 2*s.* 10*d.*$\frac{1}{2}$ now payable on all foreign hemp exported from Great Britain to foreign parts, do cease, determine, and be no longer paid.

6. That such part of the duties laid by a resolution of this House, of the 10th instant, upon sugars imported into this kingdom, from any British colony or plantation on the continent of America, as shall arise over and above the duties now payable upon sugars so imported, be paid into the receipt of the exchequer, and reserved for the disposition of parliament.

7. That the duty of 3*s.* laid by a resolution of this House of the said day, upon every piece of cambric and French lawns, exported from this kingdom to the British colonies and plantations in America, be also paid into the said receipt, and reserved for the disposition of parliament.

May 16. 1. That a duty of 1*l.* 10*s.* be paid for every negro, which shall be exported in foreign vessels from the island of Jamaica. 2. That a duty of 1*l.* 10*s.* be paid for every negro which shall be imported into the island of Dominica. 3. That a duty of 6*d.* be paid for every barrel of beef and pork, which shall be imported into the said island of Dominica. 4. That a duty of 6*d.* be paid for every firkin of butter, which shall be imported into the said island. 5. That a duty of 6*d.* be paid for every cwt. avoirdupois of sugar, which shall be imported into the said island. 6. That a duty of 2*s.* be paid for every cwt. avoirdupois of cocoa, which shall be imported into the said island. 7. That a duty of 6*d.* be paid for every 100 gallons of molasses, which shall be imported into the said island. 8. That a duty of 6*d.* be paid for every cwt. avoirdupois of coffee, which shall be imported into the said island. 9. That the said duties shall be applied in defraying the expence of carrying into execution such directions and regulations, as may be given and made by any act in this session of parliament, for opening and establishing any ports in the said island, for the more free importation and exportation of goods and merchandize, and for maintaining, securing, and improving, such ports. 10. That no other duties be paid upon the importation of any foreign American goods, in any such port in the island of Dominica. 11. That all goods of American produce, which shall be imported into this kingdom from such ports as may be so opened, in the said island of Dominica, be deemed foreign, and be made subject to the same duties respectively, as are now payable upon the importation of the like goods, of the produce of the French plantations in America, except only certain quantities of sugars, coffee, cocoa, piemento, and ginger, the amount of the importation whereof shall be limited, under proper regulations and restrictions, in respect of the produce of the said goods, within the said island. 12. That the said duties be appropriated to such uses, as the duties upon such foreign goods are now applicable unto.

On the day that the Chancellor of the Exchequer, Mr. Dowdeswell, opend the Budget for the year 1766,

Mr. *Nicholson Calvert* rose and said:

Sir; I rise up to pay my most hearty and sincere congratulations, not only to the gentlemen over the way, but to every part of the present administration; that having existed, for three or four months, on the popularity of a right hon. gentleman (Mr. Pitt), watered and refreshed by the court-like compliments of my very worthy and honourable friend, (Mr. Alderman Beckford) they have at last arrived (where I little suspected to have found them) at the business of this day.

As the hon. gentleman has now opened his budget, and laid before us the Supply and Ways and Means of the year, he will give me leave in my turn to open my budget, which, though it does not consist of pounds, shillings, and pence, I have yet an accompt of debtor and creditor to settle as well as the honourable gentleman.

The administration have, Sir, during this session, been frequently accused of inactivity, incapacity, and want of talents, for government; which they have as often repulsed by appealing to the people, whose idols they profess themselves to be.

Now, Sir, as I am one of those people, and not the less so, I hope, for having a seat in this House, I beg leave fairly and honestly

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to look into their accompt, and see how far the honourable gentlemen have, or have not, kept their engagements with the people.

Sir, I call those engagements to the people, which the hon. gentlemen, when out of place, year after year, asserted to be the rights properly belonging to the people.

In stating this account, Sir, I beg to be understood, that the hon. gentleman (the Chancellor of the Exchequer) over the way is not included in the accompt general, as I have a small account to settle with him by himself.

I beg leave likewise to put America out of the question, as that happened too late to make any part of the great accompt, and may be looked upon as the sinking fund: for with that gentlemen seem to think they have discharged all other engagements.

I think then, Sir, the accompt will stand as follows: Ministry debtor—Total repeal of cyder tax. Privilege of parliament to assert. Canada bills, payment thereof to procure. Manilla ransom ditto. Family compact, treaties to meet. Late ministry to impeach. Mr. Pitt never to forsake. These, Sir, are the engagements which I look upon the present administration to have abssolutely bound themselves to the performance of.

Now, Sir, by the assistance of the right hon. gentleman, (Mr. Pitt) the cyder tax, or at least the objectionable part of it, is repealed. The popularity of which, or at least that part of it which belonged to the hon. gentleman, is more than balanced by a most black and impotent attempt to undermine the militia.

Privilege of parliament not yet asserted. Canada bills not yet paid. Manilla ransom ditto. Family compact to meet, no steps yet taken. Late ministry very merry, no fear of being impeached. Mr. Pitt not yet minister, but kept where he is by his very sincere friends, for the good of his health.

There now remains nothing but that small accompt before mentioned with the honourable gentleman. He, Sir, stood engaged singly for a reduction of the land tax. He has, Sir, greatly to his honour, convinced us that could not be done, as there were the same objections against it this year as the last.

I have now, Sir, gone through my business; and I think, Sir, not been able in this whole account to find the hon. gentlemen, who have made this appeal so repeatedly to the people, have fulfilled their engagements in any one point whatever.

I must, therefore, beg leave, Sir, to declare it as my opinion, that if those gentlemen, by their faction and cabal, keep the right hon. gentleman out of power, (in whom there is not the least backwardness or disinclination to come forth, whenever called upon by his sovereign, and who alone, I think, at this hour, is able to do his country essential service—and the unanimous opinion of the nation goes with me) I see quite as much reason for opposing the present as the last administration: for if this country is to be undone, it matters not to me whether it falls a sacrifice to the rashness and temerity of one set of men, or the inability or impotency of another.

*The King's Speech at the Close of the Session.**] June 6. The King came to

* "It was obvious, on the prorogation of parliament, that the ministry would not long retain their station. Even before that period they appeared to have adopted a system, and a mode of conduct, which was not agreeable to the sovereign. One cause of offence was the delay in applying to parliament for a provision for the King's younger brothers. The ministers had given strong hopes of obtaining it, but afterwards, through inattention or embarrassment, omitted carrying their promises into effect, till the committee of supply was closed.

"Sensible that administration possessed neither extensive popularity, nor the confidence of the crown, the duke of Grafton resigned the seals of secretary of state, which, being refused by lord Hardwicke, were delivered to the duke of Richmond; lord Hardwicke, however, accepted a seat in the cabinet, and thus lent his aid to the administration, although he declined a situation attended with emolument. The duke of Grafton justified his resignation by declaring that the ministry wanted strength to guide the helm with success; he did not object, he said, to their persons, or proceedings, but was convinced Mr. Pitt alone could give strength and solidity to government. Under him, he would be willing to serve in any capacity, not exclusively as a general officer, but even as a pioneer, and would take up a spade or a mattock. Actuated by the same sentiments, several other persons, of great talents and popularity, refused offices tendered by the ministry; and surely, considering these circumstances, it ill became the Rockingham administration to attribute their loss of power to a cabal, a double cabinet, or a closet junto; especially after general Conway's declaration that he neither knew, saw, or felt a secret influence.

"The immediate cause of the dismission of

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the House of Peers, and closed the session with the following Speech to both Houses:

"My Lords and Gentlemen,

"It is with the utmost satisfaction that I have observed the wisdom and moderation, which have uniformly guided you, through the many important deliberations in which you have been engaged during the course of this long and interesting session of parliament: I persuade myself that the most salutary effects must be the

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the ministry is attributed to an intrigue of the lord chancellor Northington, who had long contemplated their feeble state, and meditated their overthrow. Soon after the prorogation of parliament, the affairs of Canada occupied the attention of the council. The proclamation issued in 1764, by which all the laws of Great Britain were introduced into the new acquisitions, occasioned great confusion and discontent. The natives complained that their laws of property were overturned, and new ones established, to the principles of which they were strangers, and even unacquainted with the language in which the decisions of the judges were to be pronounced. Lieutenant general Murray, governor of the province, had framed several ordonnances in pursuance of the proclamation, but the board of trade, in their report, considered them injudicious, and some new regulations were evidently necessary. The papers relative to these disputes had, according to custom, in the course of the winter, been transmitted from the council office to Messrs. Yorke and De Grey, the attorney and solicitor general, who, from that and other information which they collected, prepared a report for the consideration of the cabinet. This report contained a plan for the civil government of Quebec; the principal feature of which was, to leave to the natives their ancient rights of property, or civil laws, and to temper the rigour of their criminal code, by the more equitable and liberal system of English jurisprudence. At the first meeting of the cabinet to consider this subject, which took place at the Lord Chancellor's house, he declared an entire disapprobation of the report, objected to some particular regulations, and gave his opinion, that no proposition should be sanctioned by the cabinet, until they had procured a complete code of the laws of Canada; a suggestion which would occasion a delay of a whole year: he also complained of some slight instances of inattention which he had experienced: the meeting was dissolved without forming any definitive resolution, and before a new one could be convened, the Lord Chancellor declared his resolution to attend no more. The rest of the cabinet, considering the business of sufficient importance to demand their immediate attention, held two more meetings at the duke of Richmond's house, at Whitehall. The attorney-general, who had principally framed the report, and the solicitor-general, assisted; Mr. Yorke gave the cabinet ample information on the principles by which he was guided, and obviated every objection to the final adoption of his plan, by proposing that it should be sent to Quebec for the inspection of governor Carleton, and the colonial crown lawyers, and submitted to their consideration, with instructions to return it corrected according to their judgment, with a complete code of the laws and ordonnances of Canada. At the last of these cabinet councils, every difficulty appeared to be obviated; lord Egmont, who recommended the measure of consulting the attorney and solicitor general, went out of town, declaring his willingness to confide his judgment to their decision; and the attorney-general himself, conceiving his presence no longer requisite, retired into the country. At this period the stability of the ministry was extremely doubtful; but as the private intentions of the Chancellor were not known, their immediate dismission was not expected.

"The day succeeding the last cabinet council, the Lord Chancellor, at an audience, informed the King, that the ministry could not retain their situations, declined attending any more cabinet meetings, and refused, under such circumstances, to hold the great seal.

"The resolution to dismiss the ministry was speedily adopted, and the eyes of the court were naturally turned to Mr. Pitt, whose popularity continued undiminished, and who had recently acquired a large estate from the bequest of sir William Pynsent. The negociation was opened by offering a *carte blanche*; and general Conway, who retained his situation of secretary of state, assisted in making the new arrangement.

"When Mr. Pitt, thus assisted, had formed an administration, lord Temple was invited to a conference with the King, and lord Northington. The next day, he saw Mr. Pitt, who said, that considering his lordship indispensable, he had requested the King to send for him, and make him first lord of the treasury, and at the same time produced a list of persons who were to take places under them, which, he added, was not to be altered. Lord Temple, hurt at this peremptory declaration, complained of ungenerous treatment, and intimated that he could not accept a situation of high responsibility, unless he had, at least, an equal share of power with Mr. Pitt. During the conference, lord Temple exerted every effort to effect an accommodation: he conceded that his brother, Mr. Grenville, should support the ministry without either place or influence: he nominated earl Gower and lord Lyttelton to official situations, but they being positively rejected, he said, this conduct shewed Mr. Pitt's determination to be sole and absolute dictator, to which he would not submit, and closed the conference with some severe observations on Mr. Pitt's want of generosity and kindness.

"Thus was dissolved, in anger, that con-

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natural result of deliberations conducted upon such principles.

" Gentlemen of the House of Commons,

" I thank you for the supplies, which you have so cheerfully given, for the several establishments, and for the support of public credit; and you may rest assured, that no economy will be wanting, to render them effectual for the purposes for which they were granted.

" My Lords and Gentlemen,

" The present general disposition of all

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nexion between the two brothers which had subsisted so many years; which was fortified by a participation of official honours and public acclamations; which was considered too firm for chance, and rather to be strengthened than enfeebled by time.

" Divested of so respectable a coadjutor, Mr. Pitt proceeded in the formation of a ministry, though aware of being embarrassed by difficulties hitherto unforeseen. But the greatest difficulty arose from his own ardent and decisive temper, aggravated, probably, by sufferings arising from ill health. The consciousness of his great talents, which had so long secured to him an unlimited ascendancy in the councils of the nation, rendered him bold in his undertakings, and confident in his powers; but he was at the same time lofty, inflexible, and ungracious. A kindness, offered by him, was scarcely less mortifying than a refusal from persons endowed with greater suavity of demeanor. The bad effects of this failing had been counteracted by the more affable manners of lord Temple; but Mr. Pitt now found that it subjected him to many mortifications: in selecting a cabinet, he had no resource in his own mind, and no mode of conciliating the esteem, or satisfying the expectations of his coadjutors, but by the distribution of pensions.

" The arrangements were at length made; the duke of Grafton, not destined to carry a mattock, but to appear as a general officer, was placed at the head of the treasury. Charles Townshend was constituted chancellor of the exchequer, and intrusted with the management of the House of Commons. Lord Shelburne was appointed secretary of state for the southern department. Lord Camden, Mr. Pitt's chosen friend, and constant adherent, was raised to the high office of lord chancellor. The earl of Northington, thus deprived of the great seal, succeeded the earl of Winchelsea as president of the council. The marquis of Granby was placed at the head of the army. Mr. Pitt, though in fact the leader of the administration, took only the office of lord privy seal: he was created a peer by the title of earl of Chatham.

" On the conclusion of these arrangements the Rockingham administration were dismissed; they retired from their offices at the express command, as they had accepted them at the earnest request, of their royal master. Their expulsion was no less ungracious than sudden, as they were accused of no fault or error in conduct, and they had the mortification of seeing many of their subalterns, and those whom they had brought into place, follow the standard of their rivals; the example being set by general Conway.

" The marquis of Rockingham's retreat produced some exhibitions of regret, and a few attempts to render his exit illustrious; but they were merely personal and local, being confined to those classes of society who were principally benefited by his administration, and to those districts where his influence particularly prevailed.

" Lord Chatham was assailed with all the virulence of party malice. He, who was lately accused of bullying the marquis of Rockingham, was now decried for crouching to lord Bute; he who had resigned an official situation, because he would not be responsible for measures which he could not guide, was now supposed the willing agent of men whom he did not approve. Though he had recently declared in parliament, that he could not submit to be minister, where he felt an over-ruling influence, and that his objection to lord Bute was personal, and not national, he was now decried as the dupe of lord Bute, and contemptuously reproached with being caught in a Scotch trap. The city of London, where he had so lately been idolized, repeatedly declined presenting an address on his appointment. Every engine of calumny was employed to render his conduct odious; his peerage was a never-failing source of invective; his quarrel with lord Temple was unsparingly discussed; and a pamphlet of considerable size was formed by the republication of paragraphs which appeared against him in the newspapers, on this single occasion." Adolphus.

" Mr. Pitt projected an administration that should include men of all parties. He proposed lord Temple to be first commissioner of the treasury; but that nobleman, being now politically connected with his brother, wished for a greater share of power to the Grenville supporters, than Mr. Pitt thought expedient; and, as they could not agree on the terms of the other appointments, his lordship would not accept of the proffered office. At length the duke of Grafton, who had been secretary of state in the marquis of Rockingham's administration, was made first lord of the treasury, and general Conway, another member of the Whig party, was continued secretary of state; his colleague was the earl of Shelburne, a nobleman of considerable abilities, possessing a great extent of literary and political information, a warm admirer and zealous supporter of Mr. Pitt, and an adopter of his opinion, that neither Whig confederacies nor court cabals, but talents assisted by public opinion, at once participating and directing its energies, ought to govern this country; and that appointments

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the powers of Europe seems to indicate a continuance of peace: and it is my earnest desire to preserve the general tranquillity, by fulfilling, on my part, all the engagements I am under by treaties; and, on this foundation, I may reasonably hope and expect the same strict performance of those engagements which other powers are under to my crown.

"The many regulations which you have made, for extending and promoting the trade and manufactures of Great Bri-

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of trust in the various departments of the state should be conferred according to the appropriate fitness of the person to be nominated. Mr. Charles Townshend, recently a member of the Grenville party, was appointed chancellor of the exchequer; lord chief justice Pratt, created lord Camden, was made chancellor; his predecessor, the earl of Northington, became president of the council; and Mr. Pitt himself took the privy-seal. He was now called to the upper House, under the title of the earl of Chatham; but his acceptance of a peerage lessened the popularity of this illustrious statesman. If the case be impartially considered, the first man of his age and country accepting high rank, affords no ground for censure. On the verge of sixty, and oppressed with bodily infirmity, he had become less fit than formerly for the vehement and contentious eloquence of the House of Commons. His wisdom and patriotism might operate in the upper as well as in the lower House; and the office which he held in administration had no connection with one House more than with the other. There is nothing inconsistent with true greatness, in desiring to found a family; and the peerage can never receive more honourable accessions, than from those who have exerted distinguished ability in performing eminent services." Bisset.

Lord Chesterfield, in his Letters to his Son, gives the following account of these ministerial changes:

"June 13, 1766. What account shall I give you of ministerial affairs here? I protest I do not know: your own description of them is as exact a one as any I, who am upon the place, can give you. It is a total dislocation and *derangement;* consequently a total inefficiency. When the duke of Grafton quitted the seals, he gave that very reason for it, in a speech in the House of Lords: he declared, 'that he had no objection to the persons or to the measures of the present ministers; but that he thought they wanted strength and efficiency to carry on proper measures with success; and that he knew but one man (meaning, as you will easily suppose, Mr. Pitt) who could give them that strength and solidity; that under this person, he should be willing to serve in any capacity, not only as a general officer, but as a pioneer; and would take up a spade and a mattock.' When he quitted the seals, they were offered first to lord Egmont, then to lord Hardwicke; who both declined them, probably for the same reasons that made the duke of Grafton resign them; but after their going a begging for some time, the duke of Richmond begged them, and has them *faute de mieux.*"

"July 11, 1766. Here are great bustles at court, and a great change of persons is certainly very near. You will ask me, perhaps, Who is to be out, and who is to be in? To which I answer, I do not know. My conjecture is, that, be the new settlement what it will, Mr. Pitt will be at the head of it. If he is, I presume, *qu'il aura mis de l'eau dans son vin par rapport à my lord Bute;* when that shall come to be known, as known it certainly will soon be, he may bid adieu to his popularity."

"August 1, 1766. The curtain was at last drawn up, the day before yesterday, and discovered the new actors, together with some of the old ones. I do not name them to you, because to-morrow's Gazette will do it full as well as I could. Mr. Pitt, who had *carte blanche* given him, named every one of them: but what would you think he named himself for? Lord Privy Seal; and (what will astonish you, as it does every mortal here) earl of Chatham. The joke here is, that he has had *a fall upstairs,* and has done himself so much hurt, that he will never be able to stand upon his legs again. Every body is puzzled how to account for this step; though it would not be the first time that great abilities have been duped by low cunning. But be it what it will, he is now certainly only earl of Chatham; and no longer Mr. Pitt, in any respect whatever. Such an event, I believe, was never read nor heard of. To withdraw, in the fulness of his power, and in the utmost gratification of his ambition, from the House of Commons (which procured him his power, and which could alone insure it to him) and to go into that Hospital of Incurables, the House of Lords, is a measure so unaccountable, that nothing but proof positive could have made me to believe it: but true it is. Lord Shelburne is your secretary of state; Charles Townshend has now the sole management of the House of Commons; but how long he will be content to be only lord Chatham's vicegerent there, is a question which I will not pretend to decide. There is one very bad sign for lord Chatham, in his new dignity; which is, that all his enemies, without exemption, rejoice at it: and all his friends are stupified and dumb founded. If I mistake not much, he will in the course of a year enjoy perfect *otium cum dignitate.*"

"August 14, 1766. It is certain, that Mr. Pitt has, by his dignity of earl, lost the greatest part of his popularity, especially in the city; and I believe the Opposition will be very strong, and perhaps prevail, next session, in the House of Commons; there being now nobody there, who can have the authority and ascendant over them, that Pitt had."

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tain, and for settling the mutual intercourse of my kingdoms and plantations, in such a manner as to provide for the improvement of the colonies on a plan of due subordination to the commercial interests of the mother country, are the strongest proofs of your equitable and comprehensive regard to the welfare of all my dominions; an object truly worthy of a British parliament.

"It shall be my endeavour that such care be taken, as may tend to secure and improve the advantages which may be expected from such wise and salutary provisions.

"I have nothing further to recommend to you, than that you will exert your best endeavours, in your respective counties, to enforce the execution of the laws, and to promote good manners and good order among my people; whose true and lasting happiness shall be my constant care, and upon whose affections I shall always firmly rely."

The Parliament was then prorogued to the 12th of July; and was afterwards further prorogued to the 11th of November.

SIXTH SESSION
OF THE
TWELFTH PARLIAMENT
OF
GREAT BRITAIN.

The King's Speech on Opening the Session.] November 11, 1766. His Majesty opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen,

"The high price of wheat, and the defective produce of that grain last harvest, together with the extraordinary demands for the same from foreign parts, have principally determined me to call you thus early together, that I might have the sense of parliament, as soon as conveniently might be, on a matter so important and particularly affecting the poorer sort of my subjects.

"The urgency of the necessity called upon me, in the mean time, to exert my royal authority for the preservation of the public safety, against a growing calamity which could not admit of delay. I have, therefore, by and with the advice of my privy council, laid an Embargo on wheat and wheat flour going out of the kingdom, until the advice of parliament could be taken thereupon.

"If further provisions of law be requisite or expedient with regard to the dearness of corn, so necessary to the sustenance of the poorer sort, they cannot escape the wisdom of parliament, to which I recommend the due consideration thereof.

"At the same time, I must with concern take notice, that, notwithstanding my cares for my people, a spirit of the most daring insurrection has, in divers parts, broke forth in violences of the most criminal nature.

"Necessary orders have been given for bringing such dangerous offenders to condign punishment and speedy justice; nor shall vigilance and vigour on my part be wanting, to restore obedience and reverence to law and government.

"I have the satisfaction to inform you, that, since I last met you, I have concluded a Treaty of Commerce with my good sister the empress of Russia, whereby that considerable branch of trade is fixed on a just and satisfactory footing.

"It is with pleasure that I also acquaint you, that the marriage between my good brother the king of Denmark, and my sister the princess Caroline Matilda, has been solemnized, and the natural alliance between the two crowns happily strengthened by an additional tye of so agreeable a nature.

"Gentlemen of the House of Commons,

"I have ordered the proper Estimates for the current service of the year to be laid before you. Such Supplies as you may grant shall be duly applied with the utmost fidelity and strictest regard to the objects for which they are granted.

"My Lords and Gentlemen,

"The general posture of affairs in Europe affords no occasion to lay anything new before you upon that head. My purposes are constant and fixed, to maintain, on my part, the public tranquillity inviolate; and to support the dignity of my crown, and the rights of my subjects. The justice and wisdom of the other great powers of Europe, leave no room to apprehend any intentions of a contrary nature."

The Lords' Address of Thanks.] His Majesty having retired, the earl Spencer moved, "That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House for his most gracious Speech from the throne.

"To congratulate his Majesty on the

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addition to his royal family, by the birth of a Princess Royal; and to express our sense of that Divine blessing to which we owe the preservation of our religion and constitution, by the succession of his Majesty's illustrious House to the throne of these kingdoms, and of the happiness which we, together with the rest of his Majesty's subjects, have enjoyed under their most auspicious government.

"To congratulate his Majesty on the solemnization of the marriage of his Majesty's sister the princess Carolina Matilda, by which the natural alliance between the two crowns receives an additional strength and support.

"To acknowledge with all gratitude the paternal affection, and tender concern, which his Majesty has shewn for his people, by laying an Embargo on wheat and wheat flour, until the sense of parliament could be taken thereon; preventing by this measure the immediate and dangerous consequences that would have arisen to the public welfare, and more particularly to the ease and comfort of the poorer sort of his Majesty's subjects, from a scarcity of that grain.

"To express our readiness to enter into the consideration of every means by which the evils of scarcity may be effectually prevented, as well as our earnest desire to forward the gracious and salutary purposes which his Majesty constantly manifests for the welfare of every rank of his subjects: and, being truly sensible of his Majesty's royal wisdom, in having given the necessary orders for bringing the offenders against the public peace to condign punishment and speedy justice, to assure his Majesty of our resolution to pursue and maintain measures so indispensably necessary for the suppression of riot and licentiousness, and for enforcing that respect and obedience which are due to government.

"To return our thanks for the communication it has pleased his Majesty to make to us, of a Treaty of Commerce being concluded with the empress of Russia: and to acknowledge, that the security given thereby to so considerable a branch of trade, by fixing it on a just and satisfactory footing, is a fresh instance of his Majesty's constant care and concern for the commercial interests of these kingdoms.

"To assure his Majesty of our duty, zeal, and affection; and to express the grateful sense with which we receive the declaration of his Majesty's intentions to maintain the public tranquillity, as well as to support the dignity of the crown, and the rights of his people."

Then an Amendment was proposed to be made to the said Resolution, by inserting after the words "due to government," the following words; *viz.* "To assure his Majesty, that we will immediately proceed to prepare a Bill, for indemnifying those who, because his Majesty was deprived of the opportunity of taking the advice of parliament, in consequence of its having been prorogued to so distant a day as the 11th of November, advised his Majesty, by proclamation, to prohibit the exportation of wheat and wheat flour; and for the relief of all such persons as by means thereof are involved in law suits and difficulties; and in order, by such Bill, to prevent the future abuse of a precedent, which in times of less urgent necessity may be perverted, to justify a wanton violation of the most sacred laws, and a dangerous infringement of the constitution.

"That we cannot observe, without the highest concern, that, when it appeared by the proclamation of the 10th of Sept. against forestallers, regrators, and engrossers, that the prices of corn were already very much increased, and likely to grow much dearer, to the great oppression of the poor, his Majesty should, on the same 10th of Sept., have been advised to prorogue the parliament for 62 days, instead of assembling it on this great emergency as soon as possible, which has been done upon many occasions of far less moment, and particularly in a very recent instance on twelve days notice only; by which long prorogation, it became impossible for his Majesty, in a time of dearth and tumult, to give his subjects that relief and security which their calamitous situation required, and which the authority of the legislature alone could effectually and legally provide."

Which being objected to: after long debate; the original motion was carried.

The Address agreed to was as follows:

"Most Gracious Sovereign,

"We, your Majesty's most loyal and dutiful subjects, the Lords spiritual and temporal, in parliament assembled, beg leave to return your Majesty our unfeigned thanks, for your most gracious Speech from the throne.

"It is with the sincerest satisfaction that we congratulate your Majesty on the

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addition to your royal family by the birth of a Princess Royal; ever mindful of that Divine blessing to which we owe the preservation of our religion and constitution, by the succession of your illustrious House to the throne of these kingdoms, and of the happiness we, together with all your Majesty's subjects, have enjoyed under their most auspicious government.

"Permit us also, Sir, to congratulate your Majesty on the solemnization of the marriage of your Majesty's sister the princess Caroline Matilda with the king of Denmark. by which the natural alliance between the two crowns receives such an additional strength and support.

"We acknowledge, with the truest gratitude, the paternal affection and tender concern which your Majesty has shewn for your people, by laying an Embargo on wheat and wheat flour, until the sense of parliament could be taken thereon; preventing by this measure the immediate and dangerous consequences which would have arisen to the public welfare, and more particularly to the ease and comfort of the poorer sort of your subjects, from a scarcity of that grain.

"We shall give, on our part, the most earnest attention to the consideration of every means by which the evils of scarcity may be effectually prevented; anxious to forward the gracious and salutary purposes which your Majesty constantly manifests for the welfare of every rank of your subjects. Truly sensible of your Majesty's royal wisdom, in having given the necessary orders for bringing the offenders against the public peace to condign punishment and speedy justice, we beg leave to assure your Majesty of our resolution to pursue and maintain measures so indispensably necessary for the suppression of riot and licentiousness, and for enforcing that respect and obedience which are due to government.

"We gratefully acknowledge the communication it has pleased your Majesty to make to us of a Treaty of Commerce being concluded with the empress of Russia. The security given thereby to so considerable a branch of trade, by fixing it on a just and satisfactory footing, is a fresh instance of your Majesty's constant care and concern for the commercial interests of these kingdoms.

"Animated with the truest sentiments of duty, zeal, and affection, we thankfully receive the just and wise declaration of your Majesty's intentions to maintain the public tranquillity, as well as to support the dignity of the crown, and the rights of your people."

The King's Answer.] His Majesty returned this Answer:

"My Lords,

"The sense you express of the measures which the safety of my people put me under the necessity of taking during the recess of my parliament, affords me the highest satisfaction. I rely on your assurances, that you will consider with attention the proper means of preventing the evils of scarcity, and the necessary measures for enforcing that obedience and reverence which are due to laws and government.

"Your approbation of the Treaty of Commerce which I have concluded with my good sister the empress of Russia, is extremely agreeable to me: and I receive with particular pleasure your congratulations on the birth of my daughter the Princess Royal, and on the marriage of my sister the princess Caroline Matilda with my good brother the king of Denmark."

The Commons' Address of Thanks.] The Commons being returned to their House, Mr. Hervey moved, "That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House for his most gracious Speech from the throne.

"To express the grateful sense we entertain of the paternal care and tender regard his Majesty has shewn for the welfare of his people, by laying an Embargo on wheat and wheat flour going out of the kingdom, until his Majesty should have the advice of parliament on that important subject.

"To assure his Majesty, that his faithful Commons will not fail, agreeably to his Majesty's recommendation, to take this weighty matter into their most serious consideration, in order, by timely and effectual measures, to pursue the two great ends, which his Majesty's wisdom has pointed out, of providing against the many evils attending a dearness or scarcity of provisions, especially to the poorer sort of his Majesty's subjects; and, at the same time, of suppressing that daring and dangerous spirit of riot, which has of late too generally shewn itself in many parts of this kingdom.

"To assure his Majesty of our unfeigned joy, on the safe and happy delivery of

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her Majesty, and on the birth of a princess; every increase of his Majesty's royal family being a fresh pledge of the future liberty and happiness of his people.

"To congratulate his Majesty on the solemnization of the marriage of his Majesty's sister, the princess Caroline Matilda, with the king of Denmark; by which the union with that ancient and potent ally of his Majesty's crown is established on a fixed and permanent foundation.

"To return his Majesty our thanks, for his gracious communication, that a Treaty of Commerce has been lately concluded with the empress of Russia, which, while it gives us hopes of seeing that important branch of our trade continued hereafter on a solid and advantageous footing, is a new proof of his Majesty's constant regard for the true interest of this commercial nation.

"To assure his Majesty, that his faithful Commons will cheerfully grant such supplies, as shall be necessary for the service of the year; having the utmost confidence in the assurance his Majesty is pleased to give, that they will be punctually applied to those purposes for which they shall be granted.

"To express our highest satisfaction in the present happy establishment of the public tranquillity; and the well grounded hopes we entertain, from the wisdom of his Majesty's councils, and the influence of his example, that, while he wisely unites with the resolution to support the dignity of his crown and the rights of his people, a true zeal for the general peace and happiness of mankind, the same spirit of equity and moderation, which animates his Majesty's conduct, will direct the councils of the other great powers of Europe to the like pacific and salutary views."

And an Amendment being proposed to be made to the question, by inserting, after the words, "that important subject," these words, "To assure his Majesty, that we will immediately proceed to prepare a Bill for indemnifying those, who, because his Majesty was deprived of the opportunity of taking the advice of parliament, in consequence of its having been prorogued to so distant a day as the 11th of November, advised his Majesty by proclamation to prohibit the exportation of wheat and wheat-flour, and for the relief of all such persons as by means thereof are involved in law suits and difficulties; and in order, by such Bill, to prevent the future abuse of a precedent, which, in times of less urgent necessity, may be perverted to justify a wanton violation of the most sacred laws, and a dangerous infringement of the constitution."

The House was moved, that part of an act, passed in the 15th of Charles the 2d, intituled, 'An Act for the encouragement of trade,' might be read. And the same was read accordingly.

The House was also moved, that part of an act, passed in the 22d of Charles the 2d, intituled, 'An Act for improvement of tillage and the breed of cattle,' might be read. And the same was read accordingly.

The House was also moved, that part of an act passed in the 1st of William and Mary, intituled, 'An Act declaring the rights and liberties of the subject, and settling the succession of the crown,' might be read. And the same was read accordingly.

And then the question being put, That the words proposed as an Amendment to the said question, be there inserted;—it passed in the negative.

Another Amendment was proposed to be made to the question, by inserting, in the same place, these words, "But, that we cannot observe without the highest concern, that, when it appeared by the proclamation of the 10th of September, against forestallers, regrators, and ingrossers, that the prices of corn were very much already increased, and likely to grow much dearer, to the great oppression of the poor, his Majesty should, on the same 10th of September, have been advised to prorogue the parliament for 62 days, instead of assembling it on this great emergency as soon as possible, which has been done upon many occasions of far less moment; and particularly in a very recent instance, on twelve days notice only; by which long prorogation it became impossible for his Majesty, in a time of dearth and tumult, to give his subjects that relief and security which their calamitous situation required, and which the authority of the legislature alone could effectually and legally provide."

And the question being put, That those words be there inserted;—it passed in the negative.

Then another Amendment was proposed to be made to the question, by inserting, in the same place, these words, "To assure his Majesty, that we will enable him to give effectual assistance to

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the poorest part of our fellow subjects, to be applied either in the purchase of corn, or in bounties on such corn as shall be brought by farmers to market, or in such other manner as his Majesty in his great humanity and compassion shall think fit; and that we will make good, out of the next aids which shall be granted by parliament, such expences as shall be incurred by his Majesty, in relieving their wants, under the present unusual high price of all kinds of provision."

And the question being put, that those words be there inserted;—it passed in the negative.

And then another Amendment was proposed to be made to the question, by inserting, in the same place, these words, "To assure his Majesty, that we will apply ourselves with all diligence, to diminish the public expence, and to lessen the most burthensome taxes, from which the present distresses of his Majesty's subjects in Great Britain, have in a great measure arisen; and in consequence of which, if a timely and effectual remedy be not applied, there is too much reason to fear, that those distresses will not only continue, but increase."

And the question being put, that those words be there inserted;—it passed in the negative.

Then the Address was agreed to as follows:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, return your Majesty our most humble thanks for your most gracious Speech from the throne.

"We desire your Majesty will believe, that we entertain the most grateful sense of the paternal and tender regard your Majesty has shewn for the welfare of your people, by laying an Embargo on wheat and wheat-flour going out of the kingdom, until your Majesty should have the advice of your parliament on that important subject.

"And we beg leave to assure your Majesty, that your faithful Commons will not fail, agreeably to your Majesty's recommendation, to take this weighty matter into our most serious consideration, in order, by timely and effectual measures, to pursue the two great ends, which your Majesty's wisdom has pointed out, of providing against the many evils attending a dearness or scarcity of corn, especially to the poorer sort of your Majesty's subjects; and, at the same time, of suppressing that daring and dangerous spirit of riot, which has of late too generally shewn itself in many parts of this kingdom.

"It is with the greatest satisfaction, that we assure your Majesty of our unfeigned joy on the safe and happy delivery of her Majesty, and on the birth of a princess; every increase of your Majesty's royal family being a fresh pledge of the future liberty and happiness of your people.

"And, animated with the same zeal, we most heartily congratulate your Majesty on the solemnization of the marriage of your Majesty's sister, the princess Caroline Matilda, with the king of Denmark; by which the union with that ancient and natural ally of your Majesty's crown is strengthened, by a fresh tye of the most endearing kind.

"We return your Majesty our very sincere thanks, for your gracious communication, that a Treaty of Commerce has been lately concluded with the empress of Russia; which, whilst it gives us hopes of seeing that important branch of our trade continued hereafter on a solid and advantageous footing, is a new proof of your Majesty's constant regard for the true interest of this commercial nation.

"It is with the utmost cheerfulness that your Majesty's faithful Commons will grant such supplies, as shall be necessary for the service of the year; having the utmost confidence in the assurance your Majesty is pleased to give, that they will be punctually applied to those purposes for which they shall be granted.

"We beg your Majesty will permit us to express our highest satisfaction on the present happy establishment of the public tranquillity; and the well grounded hopes we entertain, from the wisdom of your Majesty's councils, and the influence of your example, that, while your Majesty wisely unites, with the resolution to support the dignity of your crown, and the rights of your people, a true zeal for the general peace and happiness of mankind, the same spirit of equity and moderation, which animates your Majesty's conduct, will direct the councils of the other great powers of Europe to the like just and salutary views."

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The King's Answer]. His Majesty returned this Answer;

"Gentlemen,

"I return you my most hearty thanks for your loyal and affectionate Address. The part you take in the late happy events in my family, completes the satisfaction I receive from them. I see with pleasure the continuance of that zeal and true public spirit, which I have always experienced in my faithful Commons, by your early attention to the several great objects recommended to your consideration, and particularly to the means of providing against the evils attending a scarcity of corn, and for securing the tranquillity of the country. You may depend on my invariable attention to the happiness and prosperity of my kingdom."

Mr. Alderman Beckford's Words taken down.] November 18. A Motion was made, that leave be given to bring in a Bill for the better protection and security of all persons, who have acted in pursuance of, or obedience to, the late order of council, laying an Embargo on wheat and wheat-flour.

In the debate thereupon, Mr. Alderman Beckford having used some words in his speech, to which exception was taken, they were, by direction of the House, taken down by the clerk; as follows:

"Whenever the public is in danger, the King has a dispensing power."

Whereupon he was admitted to explain himself; and thereupon declared that he meant to have added, "with the advice of council, whenever the *salus populi* requires it."

And exception being also taken to those words, they were likewise, by direction of the House, taken down by the clerk.

Mr. Alderman Beckford was then admitted further to explain himself; and he declared, that he only meant to have said, "That on great and urgent occasions, where the safety of the people called for an exertion of a power contrary to the written law of these kingdoms, such exertion of power is excusable only by necessity, and justifiable by act of parliament."

Upon which the House were satisfied, and proceeded no further.

*Debates in both Houses on the Bill of Indemnity for those concerned in the late Embargo.**] Nov. 24. Mr. Secretary Conway presented to the House of Commons a Bill for the better protection and security of all persons, who have acted in

* "Lord Chatham's ministry commenced under inauspicious circumstances. From an uninterrupted succession of rain, the harvest failed in all parts of England; the price of bread was considerably advanced; and as a similar scarcity prevailed on the continent, great alarms were entertained, lest by combinations of monopolists, forestallers, and regraters, and by an unlimited exportation for profit, the country should suffer the miseries of famine. In consequence of these apprehensions, tumults were excited in many parts of the kingdom, which were not repressed without the aid of the military. A proclamation was issued against forestallers and regraters, but that measure not being deemed sufficiently strong, and the city of London having represented to the throne that orders were received for the exportation of large quantities of wheat, while the company of bakers had applied to the city magistrates to prevent a diminution of the small stock of old corn left in the kingdom, the privy council prohibited the export, and laid an embargo on ships preparing to sail with cargoes of grain. Lord Chatham was prevented by illness from attending the council, but, in writing, recommended the measure.

"The scarcity formed the principal topic of the King's speech, and was assigned as a reason for convening the parliament early, to deliberate on a matter so important, and particularly affecting the poor. 'The urgency of the necessity,' the King observed, "called upon me, in the mean time, to exert my authority for the preservation of the public safety, against a growing calamity, which could not admit of delay. I have therefore, by the advice of my privy council, laid an embargo on wheat and wheat-flour going out of the kingdom, until the advice of parliament could be taken.' The King then recommended to make further provisions, if necessary, with respect to the dearness of corn, and mentioned, with regret, the spirit of insurrection displayed in many parts of the kingdom.

"The Address was opposed in both Houses, and amendments moved, importing an intention to bring in a bill for indemnifying those who had advised the embargo. The amendments were rejected; but the ministry having introduced a bill of indemnity in favour of the officers who had acted under the orders of council, several animated debates ensued, in which their conduct was severely arraigned. The assumption of a prerogative to dispense with an existing law, under any circumstances, or for any motive, was decried as unconstitutional and dangerous, and tending directly to establish an unqualified and unlimited tyranny. Those who advised the measure were no less open to censure than the officers who carried it into execution; and therefore an amendment was moved, including the ministers in the operation of the bill." Adolphus.

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pursuance of, or in obedience to, the late order of council, laying an Embargo on wheat and wheat-flour; and for discharging all proceedings against any persons, for or upon account of the said Embargo.

Those who conducted the ministerial business in the House of Commons, gave but little opposition to this Bill when it was suggested to them; and there appeared on this occasion, for the first time, plain marks of some disagreement in opinion, and alienation in affection, among the ministry. However, it was remarked, that though this Bill provided for the indemnity of the inferior officers, who had acted under the proclamation, yet it passed by the council who advised it; and had not a preamble fully expressive of the illegality of the measure. In these respects the Bill was amended, and made perfect. But this produced much altercation and debate, especially in the House of Lords. Some of the ministry and their friends, who had been not only the warmest advocates for liberty, but who set up as the patrons and defenders of it, were charged with such a change in their minds and opinions, that they vindicated the present exertion of prerogative, not only from the peculiar circumstances that seemed to influence it, but they also supported it as a matter of right; and asserted, that a dispensing power, in cases of state necessity, was one of the prerogatives inherent in the crown. This seeming desertion from the side of liberty, to principles so directly opposite, as it had some severe strictures made upon it within doors, so it was the occasion of many pointed sarcasms without, on the beaten subject of occasional patriotism.

In the course of the debates occasioned by these high prerogative tenets, the real causes of the necessity for the late exertion of power were first enquired into; and then the doctrine of a dispensing power in such cases was ably and powerfully attacked. It was urged, that the ministry had received such information in the beginning of August, of the state of the harvest, the quantity of corn in the kingdom, and of the great increase of its price, that they became then as thoroughly masters of the subject, and as fully sensible of all the probable consequences, as they had been at any time after that period. That from this information they should at that time have issued a proclamation for the parliament to meet on the 16th of September, the day to which it was prorogued, to take that important matter into consideration, which would have given the members above thirty days notice, and would have prevented every appearance of necessity for the ministers to commit an illegal action.

That, on the contrary, when the distresses of the poor were risen to the highest pitch, they issued, on the 10th of September, an ineffectual proclamation against forestalling, which could not give them the smallest relief; and on the same day prorogued the parliament, from the 16th of that month, to the 11th of November following. That by this long, unseasonable, and extraordinary prorogation, all advice of parliament was precluded; all legal restrictions of the export, as well as effectual provisions to increase the stock of grain, were entirely put out of the question: and in case of riots, tumults, or even a rebellion, it was put out of the king's power to receive their assistance. That the proclamation for an embargo was issued in sixteen days after that for so long a prorogation; though the reasons given in it, for so extraordinary an exertion of authority, were, that his Majesty had not an opportunity of taking the advice of his parliament.

On the other hand, the advocates for the dispensing prerogative, citing the opinion of Mr. Locke, asserted, that it was ridiculous to suppose any state without a power of providing for the public safety in cases of emergency. That this power must in all states be lodged somewhere, and that in ours it was lodged in the king. They maintained that this doctrine was not contrary to the security of the constitution, or to the spirit of liberty, since they admitted that it could be legally exerted only in cases of great necessity during the recess of parliament, and when parliament cannot be conveniently assembled; that in those cases the evil cannot be very great, since it is but forty days tyranny at worst.

To this it was answered, that this doctrine of necessity was the very principle by which all the evil practices in the reigns of the Stuarts had been defended. That the advocates for the court in the reign of Charles the first, would have added this exception of necessity to the Petition of Right; the House of Lords had even come into it, but upon conference with the Commons, were convinced that this exception would have enervated the whole law; and it was accordingly rejected.

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As to the plea of necessity, this answer is ready in the mouth of every one, that if the crown is the judge of that necessity, the power is unlimited, because the discretion of the prince and his council may apply it to any instance whatever; and so discretion degenerates into despotism. Therefore the wisdom of the constitution has excluded every discretion in the crown over positive laws, and emancipated acts of parliament from the royal prerogative, leaving the power of suspension, which is but another word for a temporary repeal, to reside where the legislature is lodged, to which only it can belong, that is, in King, Lords, and Commons, who together constitute the only supreme sovereign authority of this government. Nor did parliament ever allow of the dispensing power, or any thing of the kind, because it was exercised under the specious pretence of the safety of the nation being concerned, and the whole kingdom in danger, which was the usual jargon, and, if true, implied the most urgent necessity.

That the recess of parliament, or its not being convenient to assemble it, are distinctions not known by the constitution. That as it is now modelled, the parliament must always be in being, ready to be called, and that in so great a degree, that even an expired parliament revives when necessary to be assembled, and another is not chosen. That as to the laws, there are no days in which acts of parliament sleep. They are not like jurisdictions, that may be evaded by going into a sanctuary. They are of equal force while in being, at all times, in all places, and over all persons; though made in a short time, they have a constant and lasting force. Acts of the executive power are incident, temporary, and instantaneous; but acts of parliament are permanent, made as the general rule by which the subject is to live and be governed.

Unless, therefore, it can be said, that the moment parliament breaks up, the king stands in its place, and the continuance of acts is resigned into his hands, he cannot of right suspend, any more than he can make laws, both requiring the same power. The law is above the king; and the crown, as well as the subject, is bound by it as much during the recess as in the session of parliament: because no point of time, nor emergent circumstance, can alter the constitution, or create a right not antecedently inherent; these only draw forth into action the power that before existed, but was quiescent. There is no such prerogative in any hour or moment of time, as vests the semblance of a legislative power in the crown.

If the crown had a legal right to suspend or break through any one law, it must have an equal right to break through them all. That no true distinction can be made between the suspending power and the crown's raising money without the consent of parliament. That they are precisely alike, and stand upon the very same ground. They were born twins, lived together, and together it was hoped were buried at the Revolution, past all power of resurrection. That if any difference was to be made between raising money and the suspending and dispensing power, the latter is the most dangerous, as that which might do the most universal mischief, and with the greatest speed, as it includes the whole. But that as neither of them ever did belong to the crown, no doctrine is admissible that maintains either the one or the other. That the present distinctions are only an alleviation of the dispensing power to sweeten it so as to go down, it being too nauseous in the full stinking potion. That the safety of the crown, as well as the security of the subject, requires us to shut up every avenue that leads to tyranny; and that the super-eminent prerogative of the kings of England, by which they excel in glory all the sovereigns upon earth, is this, that they rule over freemen, not over slaves.

Upon the whole, it was said, that if the doctrine of suspension, on the plea of state necessity, was admitted as constitutional, the Revolution could be called nothing but a successful rebellion, and a lawless and wicked invasion of the rights of the crown; the Bill of Rights, a false and scandalous libel, and an infamous imposition both on prince and people: and that James the second neither abdicated nor forfeited, but was robbed of his crown. In the course of these debates the necessity of the embargo was universally allowed; and the illegality of the authority was only objected to.*

December 10. The Bill having passed the Commons, was carried to the Lords, where it occasioned a long Debate, the distinct speeches of which have not been preserved: but the arguments were thrown

* See Annual Register for 1767, p. 45.

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into the form of one Speech, entitled, "A Speech against the suspending and dispensing Prerogative," which we shall here insert:

A SPEECH IN BEHALF OF THE CONSTITUTION AGAINST THE SUSPENDING AND DISPENSING PREROGATIVE,* &c.

"It is but forty days tyranny at the outside."
Per Legem Terræ.

"Populus Romanus beneficii et injuriæ memor esse solet.--Nemo civis, qualis sit vir, potest latere.--Quemdam, hominem nobilem, factiosum, novis rebus studere, advorsum quem--neque Leges valerent.--Neque modestia, neque modus contentionis erat. - Sed eos frequens Senatus judicavit contra Rempublicam et salutem omnium dixisse."
Sall.

My lords; permit me, late as it is, to express my thoughts upon one of the most momentous subjects, in my opinion, that I have ever heard agitated in parliament. I hardly know what more important matter could occupy your lordships' attention, short of a question touching the actual dissolution of government. Sure I am, if what we have this day heard strikes your lordships as it does me, it must have brought fresh to your remembrance the fatal ground upon which that unhappy question was decided, with a vengeance, when it was debated in the House near fourscore years ago.

We are, as it were, surprized into a debate upon the dispensing power, and what astonishes me still more, we are got, at least some of us, into a vindication and defence of it—a thing I had long thought so odious in its very name, but so settled in the notions of it, and so exploded in theory as well as practice, that nobody ever thought of it, but to hate it, and to thank God it was utterly exterminated out of the pure solar system of the English government, and English liberty.

One noble lord has told us, he rose in this debate not as a patron of liberty, in the modern phrase, as he was pleased to call it, but as a patron of law. Modern phrase did the noble lord say? I hope it will never cease to be a modern phrase; though it is an ancient, and has in all countries been a glorious title. Our ancestors were patrons of liberty at the cost of their lives; but they secured our liberty by protecting the law against a dispensing power, which they resisted unto blood. 'Quid a majoribus defensum est aliud quam libertas: neu cui nisi legibus pareremus!' Shall we then be the 'præclara proles, geniti ad ea, quæ majores virtute peperere, subvertunda?' We are yet free, and, 'The freedom of men under government is to have a standing rule to live by, common to every one of the society, and made by the legislative power created in it.' So says Locke, who is appealed to as a great authority. What he says in these few words is equally in favour of law and liberty. I shall be proud to shew myself the patron of both.

My lords; the same noble lord has been pleased to claim, if not the whole, yet the best knowledge of the constitution on behalf of the profession which has raised his lordship to the stations he has enjoyed. But I have always looked upon lawyers at the best, to be but the most skilful midwives to help forward the birth of the wisdom of great statesmen, sound, enlightened and enlarged politicians, to the energy and sagacity of whose genius, in all ages, and in every country, the best models of government have been most indebted: of this the appeal made to day, as well as on a late notable occasion, to the speculations of Mr. Locke, that great philosopher, legislator, and senator, as we have been told he was, is a strong proof.

This also I will be bold to say from the history of England, that our liberties owe most to great noblemen who were not lawyers. Sure I am, lawyers have often appeared amongst us, to be the worst guardians of the constitution, and too frequently the wickedest enemies to, and most treacherous betrayers of the liberties of their country. Of this truth, the preamble of the Bill of Rights, which the learned lord has himself appealed to in the debate, as his chief, though I think, much mistaken and much misrepresented authority, will be a perpetual monument, in these words: 'Whereas king James 2, by the assistance of divers evil counsellors, judges, and ministers, employed by him, did endeavour to subvert and extirpate the Protestant religion, and the laws and liberties of this kingdom.' Certain it is, that no arbitrary prince, when meditating the subversion of the constitution, ever was at a loss for lawyers and judges to second his designs; in spite of their learning, and in spite of

* This Speech was supposed to be penned by lord Mansfield, but was, in fact, written by Mr. Macintosh, assisted by lord Temple and lord Lyttelton.

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the religion of the oaths that bound them to support and maintain the constitution. And so ship money and the dispensing power, have, in former times, had the vile countenance, and, if it could be so called, the authority of the bench, and of the sages or the fathers of the law (as Charles 1 named his ship-money judges) while a Hampden, and such like patriots, who were the greatest honour, and the greatest blessing of England in their day, stood forth the saviours of their country, by resisting the usurpations of the crown, supported by the perfidy of corrupt judges.

Such a sort of monopoly as the noble lord suggests in favour of the long robe savours too much of what a Lord Keeper (who made many excellent prerogative speeches for Charles 1,) said in the conclusion of the speech he delivered, after publishing that shameful opinion of the Judges on Ship-money. The words I allude to are these: 'If any contrary opinion should yet remain among men, it must proceed from those who are sons of the law.' Of the latter, I will say, 'Felices demum essent artes, si de illis solum judicarent artifices.' So that prerogative lawyer was for keeping the judgment of the constitution to the art and mystery of the law. Your lordships will not, from the occasion, be fond of adopting the example.

If the learned lord has now got so high an opinion of the advantages of the long robe, I remember when he had it not. But this is not the only proof this day has furnished from his lordship and from some others too, of the wonderful change in opinions, that difference of interests, as well as situation, brings with it. For I think the same learned lord has likewise told us to-day, that we are undone by divisions, though I can recollect the time when his lordship regretted in this House that we were ruined by an intoxicated unanimity, under an administration of which one of his new friends constituted a most brilliant part. I congratulate the learned lord on this change of mind for the better, which is more than I can say of all the opinions his lordship has given to day, though I believe they proceed also from a new light. I cannot however say, the noble and learned lord's opinions are modern. They are old, and what is more, they are antiquated. His lordship has but revived an old farce not acted near these hundred years. It will therefore be fit, I think, to examine opinions that have slept so long, before they are restored, or licensed, so as to pass current.

But it is necessary, for preventing mistakes, to premise, that I heartily concur with all your lordships who have spoken in the debate, in expressing my approbation of the measure immediately under consideration, when taken, —— the embargo on wheat and flour laid by order of council so late as the 26th of September. The evil of an enhanced price of that grain, which had for so considerable a time before been prognosticated, and growing by a quick pace, was then come to so alarming a height, that it awakened even our administration from the pleasing dream of pecuniary emolument, and extravagant compensations, most liberally doled about to one another, beyond the example of any former time. It awakened them to the cries and risings of the poor, and at last made them take notice that there was such an imminent danger of famine, that it became indispensably necessary to put a stop to the exportation; and by a long prorogation of parliament, which themselves had so culpably advised, that there was no other way left of doing it, but by an interposition of the royal power. I choose to use that word, though 'authority' is the word used in the speech from the throne, because I materially distinguish between the two expressions, for reasons I shall afterwards give.

My lords; on the other hand, I most warmly deplore and lament the calamity produced by the want and dearness of provisions, mentioned likewise in the speech, I mean that spirit of insurrection, riot, and disorder, that has gone forth, and rages in all corners of the kingdom, big with fire and sword, to afflict a country already groaning under a weight and pressure of evils, greater than she can bear. It would ill-become this place to palliate or excuse, on any account whatever, such dangerous tumults and riots, much less to incite and encourage them, by saying, as I have once heard it said within these walls, by one sworn to execute the laws, that the subjects, cruelly harassed by burdens and other grievances, imposed upon them by the legislature, are made desperate. This daring and lawless expression, I confess, related only to the justification of the American subject in wanton rebellion. God forbid that I should adopt the detestable language, even in favour of the English subject, taxed till

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the power of taxing can no farther go, famished, and starving. It must, however, grieve one to see the nerves of government so totally relaxed, and its proper energy and vigour almost wholly lost. The truth of the matter, and the root of the evil is, we have had no government for some years, or, which is much the same thing, we have had the form of it only, without any reality, energy, or spirit, descending ever from bad to worse.

'Tota discors machina divulsi turbat fœdera mundi.'

And the noble lord in the blue ribbon has too good reason to put us in mind of what he told your lordships last year, that you would import rebellion from America. Would to God he had not been so true a prophet! The indulgence shewn to Americans is not, I fear, altogether free of the blood that must be sacrificed in England, at the altars of justice, to restore and preserve peace and good order, maintain authority, and secure property. Nor can I acquit the blunders of administration in this very corn business of that charge. I am afraid, the unseasonable and extraordinary long prorogation of parliament, which excluded the prospect of relief from famine, by a legal prohibition of the exportation, had no small share in producing the riots and risings: and by a shameful blunder in the proclamation against forestalling, misreciting the laws it promulgates, a pretence was given for the riotous people to seize the grain for their own use, under a mistaken notion that the grain itself was forfeited, as the proclamation declares it to be, instead of a forfeiture of the value of it, which is what the misrecited statute enacts.

I said, I approved of the Embargo as necessary, when laid on; but I do not approve, on the contrary I complain of the preceding conduct of administration, by which they brought themselves into that dilemma, which necessitated them to advise his Majesty to that measure, by what is called the royal authority. And as to the principles I have heard laid down to day, and the doctrine that has been advanced in justification of the legality of the Embargo; so far am I from approving of them, or acquiescing in them, that I cannot even hear them with patience. I declare they make all the whig-blood in me boil: for, to use an expression that has, I think, been miserably misapplied on the other side, these doctrines, if adopted, lay the axe to the root of the constitution. They can tend to nothing but an utter subversion of the power of parliament, and of the most fundamental and essential rights and liberties of the subject. Upon my word, if I did not know I was awake, I should be apt to think I had been in a dream, and that some fairy midnight scene had carried my imagination back an 130 or 140 years, in an illusory audience of some of the speeches of a James or Charles, or their lord chancellors and lord keepers; for with no other standard of the prerogative, that I know of, will such notions square; and these they will fit.

I shall hereafter endeavour to point out that assemblage of circumstances on which I found the complaint of blunder, inattention, and neglect, in the administration: but your lordships will allow me, in the first place, to consider the general doctrine that has been drawn into the debate, as by much the most important matter, and what indeed principally called me up: I say has been drawn into the debate, for sure I am it could never have come from the measure in question, if it had been allowed to rest upon its true bottom, with a claim to such a sanction as could be given it by law: which sanction, by the way, I fancy your lordships will find necessary, notwithstanding all that has been said in support of the Embargo as a legal exercise of prerogative.

The question debated is, whether the Embargo on corn, the largest freedom of exportation of which is permitted by many acts of parliament, and encouraged by a statute bounty, is a prohibition according to law; a legal act of government, within the constitutional bounds of the prerogative of the crown; or is only a mere act of power, induced by an urgent necessity in the state, exceeding the true limits of the royal prerogative, but that ought, for its beneficial tendency and effect, to be approved, and must be confirmed by the sanction of law, to give it legal force and valid operation.

This question comes to a general point, and it has been brought to that in the debate. A general proposition must be maintained, and the general proposition has been maintained, that of any, and if of any, of every act of parliament, the King, with the advice of the privy council, may suspend the execution and effect, whenever his Majesty, so advised, judges it necessary for the immediate safety of the people.

I limit it so to give the proposition

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fair play. I shall likewise, to be as candid as I can, add, because it has been added, during the recess of parliament; and if your lordships please, they shall have the other words too, when parliament cannot be conveniently assembled. Such precisely is the proposition that has been maintained in this debate. For God's sake! my lords, is this the doctrine of the constitution? Is this doctrine that Englishmen will swallow? Can it go down? I do not say with your lordships, will it with the most unread or unlearned in the constitution? If this is a constitutional doctrine, I make bold to pronounce the Revolution, the glorious Revolution! (as I have been taught to call, and to think it,) nothing but a successful rebellion, the most lawless and wicked invasion of the rights of the crown, —— and the Bill of Rights, that illustrious monument of English liberty, the palladium and bulwark of the constitution, the most false and scandalous libel that ever was published; the most infamous imposition, both on prince and people, ever invented. James 2 neither abdicated, nor forfeited; he was robbed of his crown. His Majesty is an usurper, and his royal ancestors, of blessed memory, even our great and glorious Deliverer himself, have all been usurpers; the Act of Settlement is a nullity, and your lordships are a generation of rebels, whose fathers revolted; many of you are not peers of the realm. Pardon me if I am warm, I cannot help it.

The noble lord at the head of the cross-bench, who spoke early in this debate, is called a Whig,——a zealous Whig he calls himself; but he has defended the legality of the Embargo, by maintaining the very proposition I have rehearsed. I say he has defended the legality, for we are not now debating the necessity, and the argument goes to exclude the method pointed at in the Bill moved, of legalizing the measure, and validating it, by a bill of indemnity.

The noble lord has told us, he would prove his point from no less authorities, than the Bill of Rights, acts of parliament, and the usage of the privy council. Very respectable authorities indeed! who could desire better? I shall consider them all, as far as I am able to follow the noble lord on memory; and I was as attentive as possible.

Now, my lords, to the proposition; and I would first speak a word to the last part of it, the recess of parliament. This is either an old, or a new distinction. If it is an old one, the noble lord should shew us where it is to be found; if it is a new one, he should tell us what authority, warranted by the law of the land, has made it. But the truth is, it is the distinction of the day, and I suspect it will never grow older; it is an alleviation of the dispensing power, to sweeten it to your lordships, because too nauseous in the full stinking potion.

There was no such distinction in the days, when the law-making, and the law-breaking prerogative walked forth at noon tide. The princes that were then endeavouring to establish the dispensing and suspending power, in their best moods, and when they were speaking soft words to parliament, told them, that though they condescended to call them together, it was not because they could not do without them; and that if parliament refused what they deigned to ask, they would only be forced to use the other powers for attaining it, which God had given them. The concomitant, and the fatal principle of those days was, that the rights of parliament were so many concessions of the crown, resumable at pleasure, and the calling them but a gracious compliment from the prince: and so the maxim of the idolators of prerogative, as then understood, that is of absolute and arbitrary power, was *à Deo Rex, à Rege Lex.*

I cannot conceive the ground of this distinction as to the recess of parliament. By the constitution as now modelled, parliament must always be in being, ready to be called, so much so, that even an expired parliament revives, when necessary to be assembled, and another is not chosen. With regard to acts of parliament, I know of no days, either *fausti* or *festi*, in which they sleep. They are not like jurisdictions that may be evaded by going into a sanctuary. They are of equal force, while in being, at all times, in all places, and over all persons; or, as Mr. Locke says, 'Laws, though made in a short time, have a constant and lasting force.' Acts of the executive power are incident, temporary, and instantaneous; but acts of parliament are permanent, made as the general rule by which the subject is to live, and be governed.

Unless, therefore, it can be said that the moment parliament breaks up, the king stands in its place, and that the continuance of acts is consigned into his hands, he cannot of right suspend, any

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more than he can make laws, both requiring the same power. The law is above the king; and the crown, as well as the subject, is bound by it, as much during the recess, as in the session of parliament; because no point of time, nor emergent circumstance, can alter the constitution, or create a right not antecedently inherent. These only draw forth into action the power that before existed, but was quiescent. There is no such prerogative in any hour or moment of time, as vests the semblance of a legislative power in the crown.

If we next examine the foundation of necessity, it will appear to be equally destitute of authority, as the other distinction. But it would be to tire your patience unreasonably, because there is no use in it, to enter into this argument at large. For who has ever read the arguments on ship money, and the dispensing power in former and bad reigns, that does not know, that a supposed necessity was the plea to justify the acts complained of? And the answer is ready in the mouth of every one, that if the crown is the judge of that necessity, the power is unlimited: because the discretion of the prince, and his council, may apply it to any instance whatever: and so discretion degenerates into despotism. Therefore the wisdom of the constitution has excluded every discretion in the crown over a positive statute, and emancipated acts of parliament from the royal prerogative, leaving the power of suspension, which is but another word for a temporary repeal, to reside where the legislative is lodged, to which only it can belong; that is, in King, Lords, and Commons, who together constitute the only supreme sovereign authority of this government. Nor did parliament ever allow of the dispensing power, or any thing of the kind, because it was exercised under the specious pretence of the safety of the nation being concerned, and the whole kingdom in danger, which was the usual jargon, and, if true, implied the most urgent necessity.

The noble and learned lord on the cross bench, who, like a true friend of liberty, has given us so excellent a definition of the constitution, as a government by law, (which I must do his lordship the justice to acknowledge has often come from his lips in this House) has very accurately stated the extent of the crown's discretion, in matters within the legal prerogative. His lordship has truly said, that in these the crown, which is entrusted with the power, and has the right to act, must be judge of the necessity and season of acting, subject always to the controul of that constitutional advice, by which the crown must act in all cases. But these acts, as his lordship justly observed, are legal, not because they are necessary and proper, but because they flow from the proper power; and they are legal and valid, though wrong in themselves, till corrected; as a legal power may be improperly exercised, for which the advisers are responsible. But I heartily agree with his lordship that the constitution has entrusted the crown with no power to suspend any act of parliament, under any circumstances whatever; and with his lordship I also declare I never shall, nor can, consent to any such power being entrusted with the crown.

For my own part it is difficult for me to form an idea of the necessity, in any case, of suspending an act of parliament by royal authority; as the parliament may always be assembled in time to prevent an irremediable evil from any statute. Sword and famine seem to be the most alarming evils; but neither of these can possibly ever catch the nation in a case of unavoidable necessity, without culpable neglect. Invasion is not the work of an instant, and government must be totally asleep, the ministers, both at home and abroad, dozing strangely, if there is not intelligence in time to assemble parliament. Scarcity, it is impossible, can ever come at a moment's notice, so as to make famine stare us in the face; and even in the present case it is apparent, that the necessity which, at the instant, justified the embargo, was owing to an inattention that loads the authors of it, and reduces it to the case of Esau's necessity, who sold his birthright for a mess of pottage, because he had not been prudent enough to provide in time for satisfying his hunger at a cheaper rate. The marquis of Halifax has some words so applicable to this subject, that I cannot help quoting them. 'By the advantage of our situation (says he) there can hardly any such sudden disease come upon us, but the king may have time enough left to consult with his physicians in parliament. Pretences indeed may be made, but a real necessity, so pressing that no delay is to be admitted, is hardly to be imagined; and it will be neither easy to give an instance of any such thing for the time past, or reasonable to presume it will ever happen for the time to come. But if that

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strange thing should fall out, our constitution is not so strait laced as to let a nation die or be stifled, rather than it should be helped by any but the proper officers. The cases themselves will bring the remedies along with them.' This doctrine I can subscribe to in all its parts. But still, I say, that if a clear case of undeniable necessity could be figured, the legality of the act done under that force would just stand where it did, upon the general principles of the constitution, and not the particular exigency of the instance; and the justification to be effected by an *ex post facto* law, has not pointed at. For I apprehend it to be bad politics, and I should imagine it worse law, that any special case can ever derogate from a general fixed rule, such as a fundamental law of the constitution.

Let us therefore, my lords, take what road we will, still we come back to the general question, has or has not the crown a right to suspend an act of parliament, in any case or on any pretence whatever? And let the question be tried by the House's own authorities.

I begin with the lowest and last named the usage of the privy council. The noble lord produced no instances of this usage of the privy council, in prohibiting the exportation of corn. The present is the first we have been informed of. It is clear the queen's ministers would not venture upon it in 1709. On the contrary, when the queen was advised to call parliament on purpose to make provision for preventing famine, it is remarkable that she tells them in the speech from the throne, that she had done all that she could by law; referring to the proclamations issued against forestalling, &c. The queen was not advised even to use the device of laying on a general embargo, thereby to prevent the exportation of corn; though being in time of war, the crown had an undoubted right to lay an embargo. As that would have been using the war power of embargoes indirectly for another and than a war purpose, such an evasion of the law was not judged wise or fit. In the same manner the example of the queen's reign was followed in 1756; which was also a time of war. Lord Hardwicke could not then advise an embargo: we see at all other times of the like exigency, from an apprehension of scarcity parliament has been constantly resorted to: and from the bare recital of the several acts of parliament on the subject, as well as the laws permitting the exportation, as those temporary acts prohibiting it in times of scarcity, it is plain that there is not, perhaps, another instance of a thing so well guarded against the fangs of prerogative, in practice as well as by statute.

My lords; the only example of this usage mentioned by the noble lord was the prohibition of the exportation of gunpowder, which is frequently laid on by the king and council. But to that there is a very short answer, viz. that there is an express provision in one of the acts that have been alluded to, the 12th of Charles the 2d, allowing the King by proclamation to prohibit the exportation of gunpowder, though by the same act the exportation of it is permitted; which is an authority in point against, instead of being one for, the noble lord's argument. And this express statute provision, as to gunpowder, to avoid doubts upon prerogative powers, even in such a case as that of warlike stores, proves how jealous parliament is of a dispensing power, and how scrupulous government has been to rest any thing upon constructive arguments of right, or cases of necessity, to justify the crown's interfering with acts of parliament.

In regard to the authority of acts of parliament, the only one mentioned by the noble lord, I think, was that converting the Declaration of Rights into a Bill, and making it a statute. We may therefore take both together, the noble lord's argument being founded on a comparison of the Declaration with the Bill or statute, and what the noble lord is pleased to call a difference between them, as if the Bill limited and restrained the words in the Declaration.

The noble lord read from his own copy the first article of the Declaration of Rights, presented to the prince and princess of Orange, and verbatim recited in the Bill, or Act of parliament. The words of the article are, 'Whereas king James, &c. did so and so, 'By assuming and exercising a power of dispensing with, and suspending laws, and the execution of laws without consent of parliament.' And, says the noble lord, this to be sure is general, and would leave no latitude, but this is only the claim as put in by the subject, and therefore when parliament came to enact upon the article, they restrained it, knowing that it was impossible but there might be a necessity for the crown's suspending some particular acts of parliament, during the recess of

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parliament. I appeal to your lordships if this was not the noble lord's reasoning precisely, and his very words; I marked them well, for I own they surprised me.

And the noble lord next reads on your Journals the second article of the Bill, in the enacting part, which stands thus (viz. declared by parliament) 'that the pretended power of dispensing with laws, or the execution of laws by legal authority, as it has been assumed and exercised of late, is illegal.' Hence, says the noble lord, it is clear that parliament, when they came to make the statute, would not deny every degree or kind of a dispensing power in the crown, but only 'as exercised of late,' that is by king James. I confess the reasoning astonished me, and I think it could not convince your lordships, or any man living, if the thing rested on the very words the noble lord has read, to prove his distinction between the Declaration and the enacting Bill.

The history of these words 'as exercised of late' is well known. They were an amendment made by the Lords to the Bill to save some old charters and grants, with *non-obstantes*: and to secure against all dispensations whatever with statutes in time to come, there is a clause in the end of the Act, declaring that no dispensation by *non-obstante* of, or to any statute, should be thereafter allowed, except a dispensation be allowed, in such statute. But what was the dispensing power exercised of late by king James? It was only dispensing with penal laws; that is, a remitting or dispensing with penalties inflicted by act of parliament in certain cases: and even that sort of dispensation, or exercise of the dispensing power by king James, is condemned by the Bill of Rights, as illegal.

These words, therefore, upon which the noble lord has laid so much stress, furnish one particular remark, but it is most unfavourable to the purpose for which he has quoted them. Your lordships will have prevented me in it, by recollecting what I had just now mentioned. For though king James undertook to shew, by the means of his corrupt judges, that a power in the king to dispense with law was law, the only acts of parliament upon which he made his essay of the dispensing and suspending power were the penal statutes against non-conformity: from which, for the sake of the Papists, he gave a general exemption by the lump to all his subjects. He took that method, because parliament had remonstrated against his dispensing with the Test Act, in favour of the Roman Catholic officers he employed: and the language which the parliament held in that remonstrance deserves our most particular notice. They told the king 'that the consequences of dispensing with that law, without an act of parliament, were of the greatest concern to the rights of the subject, and to all the laws.' King James suspended no acts of parliament besides these penal laws; and to penal laws only did the judges he corrupted extend that shameful opinion for the dispensing power, which they give judicially in a particular case; an opinion grounded upon such notable reasons as these, 'that the laws of England were the king's laws, and therefore it was an incident, inseparable prerogative of the kings of England, as of all other sovereign princes, to dispense with all penal laws; and that it was not a trust invested in, or granted to the king, but the ancient remains of the sovereign power of the kings of England, which never had been taken from them, nor could be.' Yet for dispensing with and suspending these penal laws only, laws that, in so far as they affected Protestant dissenters, were truly a grievance, and therefore were repealed after the Revolution, did the estates of this kingdom dethrone king James: and it was declared in the Bill of Rights, that the pretended power of dispensing with laws, or the execution of laws by legal authority, as it had been so assumed and exercised of late, was illegal. What then must we think, in these times, of such a construction, as is now held out of the Bill of Rights, which attempts to invalidate and pervert the great charter of the Revolution, by setting up, as a prerogative of the crown, a right, in all cases of necessity, to dispense with all laws, touching our liberty, and our property?—a right, to which in these instances king James 2, with his most corrupt judges, never dared to aspire.

But my wonder is not confined to the noble lord's construction or interpretation of these words. For I am utterly at a loss to understand how the noble lord got at the second article of the enacting Bill, without reading the first; or how he took the second article alone of the Bill for the whole echo of the first article of the declaration or claim of rights recited in it, as the preamble of the enacting part, when the half of the answer to the first article of the claim or declaration is in the first article of the Bill. But however the noble lord may have past

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over that first article of the enacting part, I dare say it is not out of any of your lordships' memory. Hear the words of it. (Art. I, of the enacting Bill) 'Declare that the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of parliament, is illegal:' the very precise letters and words of the first article of the Declaration, or Claim of Rights, only leaving out the word 'dispensing,' because that it is made an article by itself in the second of the enacting Bill. After reading this first article of the enacting part of the Bill, I certainly need not ask your lordships, or the noble lord himself, where the limitation is, in that article, on which his lordship has founded his whole argument? Nor will the noble lord deny, that the first article is as much a part of the act of parliament as the second. Most undoubtedly there is not the least difference between the bill and the claim in this general, unlimited, and unrestrained position, that the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of parliament, is illegal; every word of which is emphatical. And so parliament in the same Bill enacts, 'that all and singular the rights and liberties asserted and claimed in the said Declaration, are the true, ancient, and indubitable rights and liberties of the people of this kingdom, and shall be so esteemed, allowed, adjudged, deemed, and taken to be; and that all and every the particulars aforesaid shall be firmly and strictly holden and observed, as they are expressed in the said Declaration; and all officers and ministers whatsoever shall serve their majesties and their successors according to the same.'

The noble lord says it is a narrow and illiberal idea that the crown has not, or ought not to have, a power, for the public good, to suspend an act of parliament. I do not know what the noble lord's notions of liberality are, or how liberal his own ideas may be. Extraordinary liberality received, may beget extravagant returns. Profusion in giving may produce vast compliance in yielding; and to whom much is given, of them the more will be required. A great authority says, that gifts blind even the wise. For my part I confess, I have no opinion of that liberality of which the constitution is the subject. Of the constitution no man can be too sparing or abstemious. She has cost much, and she is worth all that she has cost, and without it, every thing else will be of little value. I hope nothing shall ever tempt your lordships to be liberal so much at the expence of your fellow subjects. Slices of the constitution are the last thing I will give away, nor shall I consent to maim it, to gratify any man, or to justify any measure.

As to the noble lord's question, what would be the distress on many occasions, if there was in no case a power in the crown to suspend an act of parliament? After the words of the Bill, that is the statute of rights, which I have quoted, I will give no other answer than this, that they exclude totally, absolutely, and in the most general terms possible, any such power; and I am yet to learn what posterior statute has repealed one article of the Bill of Right, or vested in the crown, or the privy council such a sort of chancery powers, to suspend laws and acts of parliament, on suggestions of equity, or expediency, for the safety or relief of the subject: nor do I see that such an alteration would be an amendment of the constitution; I think it would destroy it, to the very foundation.

We have had a philosophical argument upon prerogative, to prove that the prohibition in question, was a legal exercise of legal prerogative: and Mr. Locke's authority has been quoted a page or two of whose chapter on prerogative the noble lord in my eye has read.

Nobody has greater respect for Mr. Locke's writings than I have; yet if I found any thing in them that did not square with the settled fundamentals of the constitution, I should not be moved by him. It is highly improper, I am afraid, to enter here into a general discussion of Mr. Locke's ideas, and nothing but the deference, I will add, the justice, due to so venerable a name, would have made me go into this. But I believe Mr. Locke and I do not at all differ, and I think he is misunderstood, when brought as an authority on the other side. It is not doing him justice; for surely there was not a man in England a greater enemy to the dispensing power than himself.

Prerogative is a word that has been the occasion of great wranglings, and certainly the princes of the House of Stuart understood by it arbitrary power, or something so very near it as not to be distinguishable. I have a very simple notion of it, and it is this, that prerogative is that share of the government which, by the constitution, is

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vested in the king alone. Lord Coke, after giving the etymology of the word as denominated from the most excellent part, because the king must be first asked before any law is made, says, 'the prerogative comprehends all the powers, pre-eminences, and privileges which the law giveth to the crown. It is no distinct or separate inheritance in the crown opposed to the interest of his people. It is a trust 'ad communem totius populi salutem,' just as much as the powers of parliament are.' Now I can never conceive the prerogative to include a power of any sort to suspend or dispense with laws, for a reason so plain that it cannot be overlooked unless because it is plain; and that is, that the great branch of the prerogative is the executive power of government, the duty of which is to see to the execution of the laws, which can never be done by dispensing with or suspending them.

When Mr. Locke speaks of the prerogative as acting sometimes against law, or of the laws themselves yielding to the executive, it is far from his meaning that the prerogative or executive can dispense with or suspend laws. His example makes it clear, viz. that of pardoning offenders where the law condemns, which is certainly undoubted prerogative. There the law yields, not in its force or subsistence, but only in its consequences, and in a particular instance: and though the king can pardon, he cannot beforehand, even in a particular instance, dispense with the law. The expression of acting against law, is perhaps not well chosen, but it is evident Mr. Locke intended to express no more than this, that the crown can by pardon (for instance) prevent that execution which the law would effect. As for the other instance mentioned by Mr. Locke of the law yielding, viz. pulling down a house to stop a fire, it is a clear inaccuracy, for that has nothing in the world to do with prerogative, or even with magistracy, no more than throwing goods overboard to keep a ship from sinking. It is an instantaneous act of self-defence, to authorize which no man waits for, nor needs seek the order of a magistrate. The fact of danger which is visible, justifies it in law, just as the danger of a ship justifies in law the throwing goods overboard: and both acts are legal, and allowed by all the laws in the world. Nobody ever heard or read of a proclamation or edict from the sovereign to pull down a house in the midst of a conflagration. So that if Mr. Locke's whole definition of prerogative is taken together and fairly expounded by what he himself says, it would be found he perfectly agrees with what other sound constitutionalists have advanced, that 'prerogative is a power in the person of the sovereign, to command or act in matters not repugnant to the law, or for which the law has not provided, and certain acts of grace and favour, which the king might exercise with regard to some particular persons, provided these acts were not very prejudicial to the rest of the nation.' Let Mr. Locke be but allowed to speak in his own words, and no error can be drawn from them. His reasoning in support of what he calls the law yielding to prerogative or the executive is this, 'Since many accidents may happen, wherein a strict and rigid observation (he should have said execution) of the laws may do harm, and a man may come sometimes within the reach of the law, which makes no distinction of persons, by an action that may deserve reward and pardon, it is fit the ruler should have a power in many cases to mitigate the severity of the law, and pardon some offenders.'

And in the other places alluded to, where he speaks of prerogative acting against law, he reasons thus, 'For since in some governments the law-making power is not always in being, and is usually too numerous, and too slow for the dispatch requisite to execution; and because it is also impossible to foresee, and so by laws to provide for all accidents and necessities that may concern the public, or to make such laws as will do no harm, if they are executed with inflexible rigour on all occasions, and upon all persons that may come in their way, therefore there is a latitude left to the executive power, to do many things by choice, which the laws do not prescribe.' Mark the last words! 'which the laws do not prescribe.' He does not say of doing things to make laws of no force. Nor in any one place of the book does he speak of prerogative as having a power to suspend any law. On the contrary, he largely handles the power of positive laws over the prerogative itself, to declare limitations of it; and shews the absurdity of calling such limitations encroachments upon the prerogative: and he is very clear and express, 'that the legislature is the supreme power of the commonwealth, and that no edict of any body else, in what form soever conceived,

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or by what power soever backed, can have the force and obligation of a law, which has not its sanction from that legislature which the public has chosen and appointed, and that no obedience is due but ultimately to the supreme authority, which is the legislature.'

Any author may be misunderstood by taking detached pieces of his writings, and that only can render Mr. Locke's sense of this matter dark or obscure; though I do not think he is always nicely correct in his expression.

For one instance, he says, in one place, that 'the supreme power cannot take from any man any part of his property without his consent, because the end of government is to secure property.' Yet would not any man be justly laughed at to produce this sentence from Mr. Locke, to prove that parliament could not divest the owners of the property of the houses which the Bank has thrown down in Threadneedle Street, upon giving them a compensation? Mr. Locke knew better than to doubt it; though that single sentence, if it stood by itself, might import a contrary opinion.

A great deal has been said on this occasion by the noble lord, who has quoted Mr. Locke, upon a few other words of that great author, where he says, that 'if there comes to be a question between the executive power and the people, about a thing claimed as a prerogative, the tendency of the exercise of such a prerogative to the good or hurt of the people will easily decide that question.' And the argument drawn from these words, is to shew that the tendency of the embargo in question, to the good, and not to the hurt of the people, must decide for the legality of the measure, as an exercise of legal prerogative. But I must say there never was, in my poor apprehension, an argument founded in a greater mistake, or an author more unseasonably cited.

Mr. Locke is not here speaking of the tendency of a single act done in exercise of a right of prerogative, as a rule to decide the legality of that particular act: he speaks (and his words are plain) of the tendency, that is, the general tendency of the exercise of a power or thing claimed as a prerogative, as a rule by which the question may be decided, whether that power or thing claimed as a prerogative, be really a legal prerogative, or only an usurpation—and most undoubtedly it may be a safe rule of decision. It is upon that very rule that I, and I trust every Englishman in his senses does, and for ever will, decide, that a suspending power is not, cannot be a legal prerogative, in any circumstances, or under any pretence whatsoever, because the tendency of the exercise of such a prerogative is destructive to the constitution. I say the tendency of the exercise; for it tends to render acts of parliament uncertain, and to bring positive law under the discretion, that is the pleasure of the crown, and consequently to set the whole rights and liberties of the subject afloat, so that no man can for a moment be sure of the law, though it is his inheritance and birth right. Then, indeed, it would be 'vis mensura juris.'

Far, therefore, am I from differing with Mr. Locke, in what he says in the words quoted. I find myself at full liberty to express my approbation of his reasoning. I adopt his rule of decision of that great question, whether a thing claimed as a prerogative, be, or ought to be, one. And I also heartily concur with Mr. Locke's sentiments in the only other quotation that has been read from him, 'that when that great question does arise, (and it must be the greatest of misfortunes when it does) between an executive and a legislative power, constituted as ours are, there is no judge on earth to decide it; and therefore the only remedy is the appeal to Heaven, that is, to the sword.' On that principle do I approve and justify the conduct of those great and brave men, who maintained our liberties at the expence of their lives. They first contended for them, in parliament, by force of reason, and particularly against the dispensing power of the crown; and when the obstinacy of unhappy princes, enslaved with the notions of arbitrary power, which they call prerogative, left no other option but to submit to the usurpation of the crown, or to fight, they drew their swords, and Heaven, to which they appealed, propitious to English liberty, justified their cause, and crowned it with success. In that extremity it was their right, their undoubted right, upon the doctrine of legal resistance, which is incorporated in this constitution, to take the field against the princes who were the enemies of their people, the oppressors of their liberties. For as Mr. Locke truly says, in the forcible expressions that have been read by the noble lord, 'The people have, by a law antecedent, and para-

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mount to all positive laws of men, reserved that ultimate determination to themselves, which belongs to all mankind, when there lies no appeal on earth, viz. to make their appeal to Heaven: and this judgment they cannot part with.' That, (to use the Marquis of Halifax's words, a little, and but a very little differently applied) 'is the hidden power in this constitution, which would be lost if it was defined; a certain mystery, by virtue of which a nation may, at some critical times, be (as ours has been) secured from ruin: but then it must be kept as a mystery: it is rendered useless, when touched by unskilful hands; and no people ever had, or deserved to have that power, which was so unwary as to anticipate their claim to it.'

I think I might with great safety to the question before us, leave the authority of Mr. Locke, without any apprehension of the least impression from it. But as the doctrine of tendency has been brought on the carpet, I cannot dismiss it without a few words more; because I think it is of importance that it should be stated upon its true grounds; and I shall endeavour to do it very shortly.

I admit, as in this very case before us, (the necessity being allowed,) that a power which is not a legal prerogative, may be exercised for the good of the people: and so I will allow too, that the most legal prerogative that exists may be exercised to the hurt of the people. But as the hurtful exercise of a legal prerogative, in a particular instance, will not make the prerogative so hurtfully exercised, cease to be legal prerogative, or prove that the general tendency of such a prerogative is to the hurt of the people, and therefore that it ought not to be a prerogative; so neither will a beneficial exercise, in a particular instance, of an illegal or usurped prerogative, change its nature and general tendency, so as to decide that it is or ought to be a legal prerogative.

I will explain myself, though I hardly think it necessary, by examples. It is the undoubted prerogative of the crown to declare war, make peace and treaties, to create peers, and to pardon offenders. And the general tendency of the exercise of all these prerogatives is for the good, and not for the hurt of the people. The constitution has therefore vested these powers in the crown, and they are legal prerogative. But who will deny that any one of these prerogatives may be improperly and hurtfully exercised? If they are, the advisers of the crown are responsible, though the power exercised is legal, and the acts valid. As the noble and learned lord on the cross bench truly said, when the king makes war, it is war to all its consequences, however improperly the crown may have been advised in taking the measure; and so of the rest. On the other hand, if a suspending power were exercised in an instance never so beneficial, the power is not a legal prerogative, and is not to be endured, because of its dangerous tendency. Nevertheless, the particular act done, under colour or pretence of such a power, if in itself for the advantage of the people, will not cease to be so, however illegal the power to do the act may be. Let me only just ask, as it comes in my way, and may in some respects be particularly applicable to the case of the embargo under consideration. Could the crown now legally create a foreigner a peer, because it is the general prerogative of the crown to make peers, when the Act of Settlement has, in that particular instance, restrained the general prerogative of the crown? Certainly not. And for the same reason, even supposing it to have been at any time an inherent power in the crown to prohibit the exportation of corn, the crown cannot now do it, as positive statute has clearly divested the crown of the power.

What I have said is, I think, sufficient to shew, that Mr. Locke is very much misunderstood and misapplied, in the words last referred to, which have been much insisted upon, when they are produced as an authority to prove, that the tendency of the embargo to the good of the people, is the rule for deciding if it is an exercise of a legal prerogative or not. I will even venture to say, Mr. Locke's words are a clear authority upon my side, to prove, as far as the reasoning and opinion of that great writer can do it, that the dispensing or suspending power, which is the only thing that can be named as a prerogative, under or by virtue of which the embargo is laid, is not, and cannot be a prerogative.

I will, however, go yet a step farther, and I hope I shall satisfy your lordships, that the use made of this authority of Mr. Locke, taken as the noble lord has stated and explained it, even upon his own argument, is as dangerous and unsatisfactory as any thing can be. For, my lords, suppose for once, it was the tendency of a

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particular act that was to decide for or against the legality of that act, as an exercise of a legal prerogative, I only ask, what would be a more uncertain or dangerous rule of decision, with regard to the suspension of an act of parliament by the crown, if the decision is to be with the crown; and with the crown it must be, when the suspension is to be the act of the crown; and consequently, according to the argument, the legality of the act to depend upon the crown's decision? I say, what more uncertain or dangerous rule of decision? I do not say but a case may be put, so strong, that there cannot among men be a doubt as to the tendency of a particular act of suspension, as in the very instance of prohibiting the exportation of corn, when famine is staring you in the face; and in such a case, the crown would decide just as every other person would. At the same time, one may affirm, that even that case is not such an one as will always admit of an absolute mathematical certainty; for men may be, and they often are, divided in opinion as to the appearances of scarcity, whether real or not, and to what degree; and consequently, whether it is fit to prohibit the exportation of corn or not. But supposing that to be one clear case, I ask, how many more clear ones can be mentioned? And I am entitled to ask the question, because if a power in the crown to dispense with an act of parliament, for the good of the people, is the foundation of prohibiting exportation, supposing exportation to be authorized by act of parliament, the same dispensing power may be exercised as to other acts of parliament, on the like ground of the good of the people; and so must extend to the whole statute book. Now, my lords, how many cases are there, in which all mankind would, to a man, be agreed, that it was for the good of the people to suspend any one particular act of parliament? What act is it, that if a question of repeal were in parliament, this and the other House might not be divided in opinion about? some thinking it of a tendency for the good of the people, others thinking the contrary: and the people without doors also divided in opinion. Would it then be a safe rule to make any one act of parliament, in the general view of things, depend on the decision of the crown, for a suspension, be it never so short, which is nothing else than a temporary repeal? Or is that a rule, upon which to rest or trust the decision of the legality of any particular act of a suspending power exercised by the crown? I will not, I need not, lengthen the argument. It is clear nothing could be a more dangerous, uncertain, and arbitrary rule: nothing so naturally tending to found a despotic power in the crown over acts of parliament: and therefore nothing can be so fallacious or misapplied an argument as that drawn from Mr. Locke, explaining his words in such a sense. His rule would not apply: it could not, even to particular acts or exercises of any power or prerogative. He did not intend so to apply it. As a rule with regard to one or another, general power claimed as a prerogative, it is a sound and safe one; and he applies it no otherwise himself: but, as I said, it is not only foreign to the purpose, as it has been applied in the argument, but it is clearly against the thing contended for by those who do apply, or rather misapply, it in that manner.

One single remark I must be allowed to make, before I close my observations upon Mr. Locke's authority. The last session of parliament set out with the wildest doctrines, extracted piecemeal from the same Mr. Locke, in favour of liberty; of liberty run mad with notions extravagant, ridiculous, exploded, and, thank God! by the whole legislature condemned. This session begins with doctrines again extracted also piecemeal by the same persons, from the same author, trumpeting forth a tone of tyranny, more hateful, and more dangerous, because more extensive, than any promulgated in the worst reign of the worst of Stuarts. I hope these will meet with the same contempt as the others did. Indignation is the due of both.

After all, my lords, what is this old and stale argument now revived, as to the tendency of the exercise of a prerogative for the good, and not for the hurt of the people? What is it, I say, taking things on a general view, but the exploded argument of necessity repeated in other words? The wildest bigot to prerogative, or absolute power, (if I may imitate the enthusiasm of the noble and learned lord's expression who spoke of the wildest zealots for liberty) I say, the wildest bigot to prerogative never pretended, that any prerogative whatever, the dispensing power itself, could or ought to be exercised, but for the good of the people; the prince, indeed, always being judge of that. Even Manwaring and Sibthorp themselves would

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not have said otherwise;—those monsters of men, who prostituted the pulpit, to preach the impious and nonsensical doctrines, 'that if princes commanded things against the laws of God, or of nature, or impossible, yet subjects were bound to undergo the punishment, without resisting, railing, or reviling: and that the King is not bound to observe the laws of the realm concerning the subject's rights and liberties, but that his royal will, in imposing taxes without consent of parliament, bound the subject's conscience, upon pain of eternal damnation.' Even these men, and their stupid doctrines, suppose that what was done by the prince should be for the public good; and that what was not so, was in itself wrong; as certainly what is against the laws of God, or of nature, must be; and therefore, as they admit, could not in conscience be actively obeyed; for which reason they wickedly and senselessly say they ought to be obeyed passively, by suffering punishment. But did not every prince who exercised the dispensing or disabling power, pretend that he did it for the good of the people, and that the particular acts by which it was exercised, were for the best ends? Look at James the second's declarations for liberty of conscience. What more specious pretences could be devised than are mentioned in those acts of the dispensing power? 'To unite the hearts and affections of his subjects to God in religion, to him in loyalty, and to their neighbours in Christian love and charity.' For these great and good purposes, 'he thought fit, by his sovereign authority, prerogative royal, and absolute power, which all his subjects were to obey without reserve, to grant his royal toleration.' And for that purpose, 'with the consent of his privy council, by his sovereign authority, prerogative royal, and absolute power, he suspends, stops, and disables, all laws or acts of parliament made or executed;' and so forth.

These are the words used in one, and they are only a little softened, but not substantially varied, in another of the declarations of this sort.

Part of that same very illegal act of the dispensing power, the declaration in favour of liberty of conscience, unquestionably was, in its tendency, for the good of the people. The first part of it, artfully introduced to colour all the rest, is a toleration to Protestant dissenters, exempting them from the absurd penalties of nonconformity. But did that tendency of the exercise make either the particular exercise, or the pretended prerogative exercised, legal? No. It was equally an exercise of the dispensing power, and consequently equally illegal in favour of Protestant dissenters as of Papists, though the tendency was very different in regard to the two. And accordingly, when government came to itself, and was upon a right foot, one of the first acts passed after the Revolution was, for exempting Protestant dissenters from the penalties of those grievous laws that affected them.

The preamble of the act adopts the very motives with which king James gave a colour to his declaration; and the act itself is the best proof in the world, if the fact needed one, that the tendency of king James's exercise of the illegally assumed power, was so far for the good of the people. Yet that very act of king James was one of those that cost him his crown, and, as I have said before, stands the very point condemned by the second article of the Bill of Rights, as exercised of late, without any distinction as to the tendency of any part of it; though the posterior Act of Exemption manifests the opinion of the parliament, that one part of it tended to the good of the people. The difference is this: the act of parliament was the constitutional relief from the grievance; the act of king James, let its tendency, in any part, be what it would, was, in the whole of it, the exercise of an unconstitutional and usurped power, against law, and in its tendency dangerous to the liberties of the people.

I will venture to say, that there is not any one notion more exploded, and more condemned by the statute book, than that notion of the tendency of acts for the public good being sufficient to make them legal; and, indeed, it is one of the wildest notions that ever entered the mind of man; for it goes to cut up all government by the roots, and to make every man a judge and lawgiver for himself. I might have said, that it is condemned and exploded by all morality and sound divinity; avowed and professed only by Jesuits, and such diabolical casuists. But, I say, look only to the statute book. What is the language of all your acts of indemnity, upon great occasions? I need not mention those in our own memory, passed after the rebellions 1745 and 1715, on purpose to indemnify those who had done acts for the public service against law, and that could

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not be justified by law, as the stile of these statutes runs. Let me only refer your lordships to one of the first acts passed after the Revolution, 'the act for preventing vexatious suits against such as acted in order to bring in their majesties, or for their service.' What does it say? 'Whereas about the time of his majesty's glorious enterprize for delivering this kingdom from Popery and arbitrary power, and in aid and pursuance of the same, divers lords, gentlemen, and other good people, well affected to their country, did act, &c.; in which proceedings, some force, &c. were unavoidable, which, in a time of common peace and safety, would not have been warrantable; and also since their majesties happy accession to the crown, by reason of the wars and troubles raised and occasioned by the enemies of their majesties and this kingdom, divers like matters and things have been done; all which were necessary and allowable, in regard to the exigence of public affairs, and ought to be justified, and the parties concerned therein indemnified,' &c.

Surely, my lords, if ever there were acts that tended to the good of the people, these mentioned in this act were: acts to rescue the kingdom, its religion and laws, from ruin and destruction; and done at a time, of all others, when no law could be said to be in force, but the law of nature, which stimulated and justified what was done, the government being totally dissolved; so that one might say, there existed no law of the land to be transgressed, or that could be a ground of action or charge, as where there is no law there can be no transgression. Yet even for such acts done, acts necessary and allowable, as the statute speaks, and done under such circumstances of a suspension, in fact, of all the laws in the kingdom, did these saviours of their country take and pass to themselves an indemnity. They loved the constitution they had saved so much, that they would not suffer the very act of saving it to have the appearance of giving it a wound. And though these were the acts of subjects, it makes no manner of difference; for I do maintain, that in law, and legal and constitutional language, the crown has no more right to suspend acts of parliament, or to act against them, than any subject; because, as I said before, the one is not more than the other the legislature. This, however, is a distinction totally immaterial, because, according to this constitution, there can be no act of the crown, but some subject is responsible for it as the adviser: and in the matter before us, the lords of his Majesty's privy council state themselves, justly, as answerable to parliament for the act they advised. Over and above all which I might add, that the case I have referred to was the strongest and most favourable that could be; for if it was not the crown which did the acts indemnified, it was not one or a few subjects, but the whole people and parliament itself that were the actors; and had not the caution for the safety of the constitution been great, in proportion to the zeal that had just redeemed it, men might have thought, with good reason, that the very act of Revolution, and the statute that placed the crown on William and Mary's heads, were sufficient to justify every part of the work, as well as the best proof of the tendency of every thing done in aid and pursuance of it.

My lords; there were other acts in the reign of William and Mary, of the same tenor and effect with that I have quoted, particularly in 1690 and 1692, on occasion of threatened invasions. I only mention them because the persons first named as the actors in the things thereby justified and indemnified, are the lords and others of the privy council, and the chief act done against the law, was the causing the militia to be raised otherwise than as authorized by the acts of Charles the second, which were not more sacred than the acts of the same reign, permitting the exportation of corn. The privy counsellors, even of those days, were not shy to acknowledge on the records of parliament, that they acted against law and against acts of parliament, though the acts they had done were necessary and for the public good; nor did they despise and refuse an indemnity, but accepted it to transmit it to posterity as a safeguard of the constitution, that in future times no evil might come to it, from a precedent of the highest necessity, and most important service to the country; because they knew, as we do, 'omnia mala exempla à bonis orta sunt.' His present Majesty's ministers are ashamed or afraid to own that an act they advised was not legal, though they say it was necessary, and all agree with them, that from various neglects and criminal blunders, it was at the time become so necessary as to be unavoidable. Rather than own a breach of the law, even a necessary one, that ought to be justified, they will defend the act done as strictly

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legal, at the expence of maintaining a degree of the dispensing power: I say a degree, for I will not make it worse than they do themselves. They are so much more delicate or infallible than king William's ministers and privy counsellors, that they are affronted with the offer of an indemnity: and one noble lord says, 'timeo Danaos et dona ferentes.' I believe it. All ministers, when they are in the wrong, are afraid, especially of those that are able to shew their error, and by offering a plaster discover the sore. I truly believe they are afraid, for the same reason as the Trojans dreaded their enemies, and suspected their gifts, that is, lest the city should be surprised and taken. But, my lords, the fall of fifty ministers, or fifty successions of them, if the greatest that ever were, is not to be compared with one thrust at the constitution, let the instrument be never so harmless, or the intention never so innocent: for she may be wounded even in the house of her friends, and 'alta sedent civilis vulnera dextræ.' If the noble lord is afraid of those who proffer gifts, I will be jealous of those who refuse such as are now tendered, and refuse them on such grounds as I have heard this day, in my opinion, dangerous in the last degree to the constitution; and only so much the more so that they are the arguments of her once most zealous friends, to whose past services I will consent to give any reward but that of wounding the constitution farther: one hair of the head of which I would not have hurt for all ministers, or any prime minister on earth.

The noble lord who founded so much upon the authority of Mr. Locke, in his second speech, has taken up some time to justify the argument of the noble lord who sits near him, from a misinterpretation which he thought some other noble lord put upon it, as if the noble lord had argued for a general and unlimited dispensing power; whereas he only maintained it in cases of necessity, and till parliament could meet: and, says the noble lord, this is the circumstance which distinguishes the act in question from those exercises of the dispensing power complained of in former times, that it was done only when parliament could not meet, and till it assembled: and farther, says the noble lord, it is singular for criminals to call their judges to condemn them; yet the King's servants have called the parliament to judge of the act they advised, and to condemn it if it is wrong.

My lords; if you have honoured me with any attention to what I have said, you will not think that I mistook or mis-stated the argument of the noble and learned lord which the other noble lord has explained and enforced, as well as justified. I do not think any of your lordships did mistake it: but I did not like it as he gave it us, and I hope very few of your lordships were pleased with it. It is true, the noble and learned lord was but for giving us a taste of the dispensing power; I do not chuse to touch the cup; and therefore I reject the distinction, as to the recess of parliament, totally, and I have endeavoured to disprove the foundation of it. Whether I have succeeded, your lordships are to judge. I can make no distinction but one, and that I do make, between an act of power, and an act of prerogative. The crown has the whole force of government in its hands, all inferior magistrates and ministers of government under its orders; and what the crown commands they will obey, and in general I think they ought, as it must indeed be a very strong act against law, that they should dispute or disobey, as it would be dangerous to constitute them judges over the crown. But parliament will make the distinction between power, and prerogative, and judge upon the act done accordingly. The act in question, I say, is an act of mere power supposed to have been impelled by necessity, and tending to the safety of the people, and, as such, it is to be allowed and justified; but it is not to be taken as an act of prerogative, because it is not a legal act, there being no such prerogative in the crown, as a dispensing power for one moment, or in any one moment: and therefore it was, that I very soon told your lordships I objected to the words 'royal authority,' as I hold authority to be legal power, whereas the embargo is, in my opinion, power without law, and against law, consequently is not authority in a just sense.

As to what the noble lord says of the ministers calling parliament their judges to judge of the act they advised, I see no weight in the observation at all, upon the footing of the doctrine advanced by himself, and by others whose arguments he has supported. Had the ministers told us, that they had advised the crown to an act of power which they were sensible was not agreeable to law, but was so necessary and salutary, that they were confident it would be approved, and that they had, in that confidence, called parliament to submit their

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conduct to the judgment of parliament; I say, had they held this language, I admit they might have said there was some modesty at least in calling their judges to sit upon them, and that it would have passed for a presumption of innocence as well as a proof of candour. But what are we told? Why, that the crown had a right to do what it has done; that it was the prerogative of the crown to do it; and all the modesty that can be pretended is, that the ministers did not give a longer line to the exercise of this prerogative, but called parliament a little more early than usual, though perhaps, if the whole truth were known, parliament was really called (as it was at that time alledged) only for the India business. It is impossible it could be for the embargo, as the embargo was not laid when the proclamation for calling the parliament was issued, viz. 10th September. However, if the doctrine that has been advanced is just, parliament has no judgment to give of the act done by the crown; but only to judge what they themselves ought to do in the same affair. For now that parliament has met, all that is told them is this: 'You may have thought, when at your country houses, that the embargo was not a legal act: but we let you know you are mistaken; for the embargo is the exercise of the ordinary and undoubted prerogative of the crown.' I own I did not expect to hear such news, and if I believed them I should not think the parliament was met upon a very foolish errand, but I would say it was upon a very unhappy occasion; and at the best I think there would have been as good reason, and not less modesty, in calling parliament in the beginning of the winter, to acquaint them, that during the recess, his Majesty had thought fit to create some new peers, and to change his ministers, which are both the undoubted prerogatives of the crown, whether exercised properly or improperly.

The noble and learned lord upon the woolsack, a new convert to prerogative, has thrown his abilities, and the weight of his situation, gained by other doctrines, into the scale of the dispensing power; and in maintaining that degree of it contended for by the other noble lord whom he has supported, his lordship has taken the ground of the law of nature, that first of all laws, self-defence, recurring again to that necessity which is superior to all law, and calling up the great maxim, 'salus populi suprema lex:' and his lordship tells us he goes to common sense, he wants no statute for that which is written in the breast of every man, that law of instinct, that inherent power which must be in every state as much as in a single person to defend itself: and that if he thought the law of England (which he had hitherto thought to be perfect) was so destitute of sense and reason, as not to have that great fundamental of all law and government, *salus populi*, &c. for a part of it, he would move for a Bill to enact it, and make it part of the law of the land.

The noble lord says he was one of those who advised his Majesty to the measure in question, and he thought he had done right. He thought his Majesty deserved thanks for the care he had taken of his people, but he now finds there is to be blame even when he is dispensing good to the nation, and the view is to cast a slur upon the gracious act of the crown, and to hold forth to the public that there has been a violation of the constitution. And if it is so, says his lordship, he ought to change his tone and cry mercy; and the first thing your lordships ought to have done was to call the offenders who gave this criminal advice to the bar—but says his lordship, I will not be so mean as to skulk under a pardon till I find I am condemned, and it is hoped your lordships will not condemn any unheard. The noble lord is ready to enter upon that ground with any man, and to maintain that it is not only the right but the duty of the crown to suspend the execution of a law, for the safety of the people, as much as to keep them from starving; that the crown is bound in duty to protect the people from ruin, and the prerogative (as another noble lord had expressed it) is nothing but a power to protect them; and, says the noble and learned lord upon the wool-sack, it is a strange thing if the act was wrong which every body says they would have advised—that it is a strange crime to be meritorious—a strange criminality to save a country from ruin—from famine. His lordship, however, challenges any one to shew that act of parliament, that excludes the crown from the power of stopping the exportation of grain;—there is nothing, he says, in the whole statutes, from Magna Charta down, but this one simple thing, that the sea shall be open 'soit la mer ouverte'—that the crown had done no more than to keep wheat in the country to prevent a famine at home, and that only for forty days, till the parliament should meet; and, says

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the noble lord, in the warmth of his fancy, that is such a power as he believes Lucius Junius Brutus would have entrusted Nero himself with; adding, as if that was not an expression strong enough, it is but forty days tyranny at the outside.

When I repeat these words, in which I am sure I am not mistaken, I cannot go farther without disburdening my own mind of its feelings. That noble lord is the last person from whom I should have expected to hear such words. But I own a great deal of what he has said shocks me;—by nothing that he has offered am I convinced: and though it may be bold for one of those not entitled, and not expected to be so learned in the constitution, and with still less pretensions to be learned in the law; yet I cannot stir from my place till I have done some justice, unable as I am, to what presses upon my poor understanding.

Forty days tyranny! my lords; tyranny is a harsh sound. I detest the very word, because I hate the thing. But are these words to come from a noble lord whose glory it might, and ought to have been, to have risen by steps that liberty threw in his way, and to have been honoured, as his country has honoured him, not for trampling her under foot, but for holding up her head? A noble lord in the b——r——— has said, as it became him to say, forty hours, nay forty minutes tyranny is more than Englishmen will bear. I have used my best endeavours to answer the argument which is the foundation of the distinction to which the forty days alludes, by argument founded in principles; I will now give the noble lord one answer more, and it shall be *argumentum ad hominem*.—That noble lord has, I believe, said on other occasions, and he said well, that the price of one hour's English liberty none could tell but an English jury, and juries, under the guidance of a certain learned judge, have estimated it very high, in the case of the meanest of the subjects, when oppressed only by the servants of the state. But forty days tyranny over the nation by the crown! who can endure the thought? My lords, less than forty days tyranny, such as this country has felt in some times, would, I believe, bring your lordships together without a summons, from your sick beds, riding even upon post horses, in hot weather, faster than our great patriots themselves to get a place or a pension, or both; and, for aught I know, make the subject of your consultations that appeal to heaven which has been spoken of. Yet establish a dispensing power, and you cannot be sure of either liberty or law for forty minutes.

I have as great a regard for the principles of the law of nature as the noble lord can have. I love them. I know indeed the law of nature is not a law for men in their present state; it is too weak to bind them; and it will always with some danger be recurred to, as a rule of conduct, even in cases of the most extreme necessity. However, my lords, I am ready enough to admit that every state, that is, all government, as well as every individual, has an inherent right to act, and must, for self-preservation, act upon that principle of the law of nature, self-defence. But, my lords, do not let us be led away with a name without proper ideas. Even that great principle of self-defence, sacred as it is, does not suspend or make void any positive law or constitution whatever: it only takes the case acted in out of the law, leaving the law in its full force. So a man who kills in self-defence is acquitted, not because there is no law against murder, but because his case is not within that law. I cannot help therefore thinking it but an incorrect use of the term self-defence to apply it to this case, by saying the embargo was self-defence against famine. The laws for exportation have not overlooked or omitted to provide for the case of self-defence against famine. Your lordships will understand what I mean, when you recollect, that as the laws stand there are limits set to the liberty of exportation, to stop it when the prices come to a certain pitch, and that is the remedy which the legislature has saved against dearth; the fact then suspending the law. I do not say but such a necessity may occur as to make it necessary to draw another line, and so we have had, and now again, I presume, shall have a temporary law narrowing the line. But that is an extraordinary case, the cognizance of which parliament has reserved to itself, to apply an extraordinary remedy to it; and has not left it to the superior wisdom of the crown and privy council to anticipate that extraordinary remedy by a suspension of the laws, within the bounds prescribed by parliament, which will of themselves stop the exportation as soon as parliament has thought, in a general view of things, it ought to be prevented.

My lords; I revere the principle of 'salus populi suprema lex.' And I do

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not think we need an act of parliament to introduce such a fundamental into the law of England. But what does this principle teach? Why this, that in the making of laws, the safety of the people ought to be paramount to every other consideration, public or private: and in the execution of laws, or obedience to them, that it may for an instant transcend them all; so that if a case happens, in which positive laws cannot be executed or obeyed, and at the same time that great principle pursued, positive laws are and ought to be disobeyed, or not executed at peril, the maxim followed, and the justice of government relied upon for the justification and indemnity: a hazard which under no wise and good government, any man acting with an upright intention need be afraid of.

But the principle, even upon the widest ground of the law of nature, does not import that all positive laws are by the force of it *ipso facto* suspended or repealed; in cases that concern the execution or obedience of them. It supposes the very contrary; and never could do otherwise, unless we were at once to say a thing so absurd as this, that not only the executive power of government, but every subject is vested with a dispensing power, as the principle operates with equal force on single subjects as on the executive power itself; and is upon every individual a binding duty, as far as there is an obligation upon any one to consult the safety of the commonwealth. If, therefore, the debate were, upon the act in question, whether to be justified or not upon this great principle, supposing it not justifiable upon any other, government most surely is entitled to avail itself of the principle, so qualifying the act, as to bring it within it. But if government maintains the act to be the exercise of legal power, and consequently against no law, the principle of *salus populi*, &c., which always supposes the direct contrary, is totally out of the question: and, indeed, I cannot help taking notice of it as an inconsistency, that, in my apprehension, runs through the whole of the argument of the noble and learned lord, which I am now considering, that he resorts at all to extraordinary principles, and particularly to those of the law of nature; for if, as his lordship and other noble lords have argued, the act in question is a legal act, and the exercise of a legal prerogative, it needs no 'salus populi suprema lex,' for a justification or excuse. It defends itself, and is within the protection of the positive law of the land; and consequently, the law of nature has no more to do with it than the law of any foreign state, that has no authority in this country. For my part, the application I do, and shall, upon every such subject, and occasion, as the present, make of the maxim *salus populi*, is this, that as I think the safety of the people could not be secure one moment, if the constitution were not preserved entire and unhurt, the supreme law with me shall ever be to maintain, unrelaxed and unenervated, the fundamentals of the constitution, and, as one of the principal of them, to exclude every, even the least degree of a dispensing or suspending power in the crown, the natural and necessary tendency of which is to destroy the constitution, and of consequence to destroy the safety of the people.

And here, my lords, I would only ask by the way, if ever the principle of *salus populi* was made, or pretended to be made, a ground for the crown's assuming or exercising a power to suspend the Habeas Corpus Act by order of council, though nothing, perhaps, more directly concerns the safety of the state on some occasions; and therefore it is the first thing parliament does in emergencies of imminent danger? These suspensions are, I hope, the only species of dictatorial power that this government is acquainted with. But, thank God, they are no part of the constitution, nor do they depend on the pleasure, or even the discretion of the crown. One noble lord has, indeed, mentioned the dictatorial power in the debate, and endeavoured to assimilate this act of the crown, of suspending the laws for the exportation of corn, to it. But surely, after saying what I have just now said of the suspension of the Habeas Corpus, as totally beyond the power of the crown, it is needless to give any other answer to this attempt to compare the crown's suspending these laws with the dictatorial power among the Romans. If the suspending or dispensing power of the crown were any part of this constitution, it would, indeed, be a dictatorial power with a witness; and a perpetual one too: so that we should be so much worse than the Romans were, as their constitution slept only during the existence of the dictatorial power, which was but short, and expressly given by the senate; whereas ours, without the intervention of our senate, would at once and for ever be destroyed totally.

The noble and learned lord speaks of

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meritorious criminality as strange; and it would be so. But meritorious illegality is not so strange, or an action meritorious in itself, and happy in its effects, though against law. The merit consists in running the risk of the law, for the public good; as in the instance alluded to by the other noble and learned lord on the cross bench, of the Roman general who fought against orders, and was rewarded for saving his country. On the other hand, if an act is authorised by law, there can be no such risk, nor consequently any other merit than that of doing one's duty.

I agreed with the noble lord who holds the seals of secretary of state, that he would be a poor minister indeed, who would not run such a risk when the safety of the state required. I will not take the noble lord's instance of signing a general warrant, as he arbitrarily said he would do, notwithstanding all the noise that has been about them; for a general warrant is such a piece of nonsense as deserves not to be spoken of, being no warrant at all, and incapable of answering any one purpose, in any case whatever, that a legal warrant would not better attain. But this I will say, that without being a minister, as an inferior magistrate, or even as a private subject, I should not hesitate, upon good ground of public safety, to stop, if I could, any ship from sailing out of port, to the destruction of the state, although no embargo subsisted: and in this case, if ministers had held to the justification of the particular act, upon the circumstances, they had done well. But they have justified the act, by maintaining a power which I cannot acknowledge. I blame not the crown, nor the advisers of the crown, for dispensing good, nor do I wish to hold out to the people a violation of the constitution; but I will blame ministers for asserting a prerogative in the crown, which, instead of dispensing good, would dispense much evil; and if they will hold out a power unconstitutional, and destructive of the vitals of the constitution, they must excuse others for holding up the barrier against such a power, and defending the constitution. I think prerogative is a power, and it is a duty also to protect the people; but I think a dispensing power is no part of the prerogative, and equally against the duty of the prerogative, and the safety and protection of the people; and to tell your lordships the truth, I am astonished how a House of Lords could have patience to sit and hear so much of it: the noble lord spoke as if he joked, and certainly was in jest when he talked of crying mercy, and skulking under a pardon, of calling to the bar and condemning. I will not enter into what the other noble and learned lord who spoke before him, said of his not being a wise man who refuses God's pardon and the king's. But I have had occasion to mention instances of your lordships' ancestors, when they did things meritorious indeed, though not authorised by law. They did not cry out for the mercy, but they claimed the justice of their country; and their country protected as well as applauded them. Parliament past indemnities; nor did these brave men think it any meanness to cover themselves; I will not disgrace their heroism so far as to say they skulked under a pardon, though they sued for and accepted an indemnity in their own persons for the constitution. Let me tell the noble lord who jokes at this rate, that the time has been, (and I almost wonder we have not seen it very lately) when a word in defence of any sort of dispensing power, would have brought the greatest peer in the kingdom to the bar: sure I am it is wonderful forbearance that no one noble lord insisted upon some very alarming expressions being taken down. It is a kind of complaisance or acquiescence that I fear more than the noble lord needs fear the 'dona ferentes.' Language of this sort, sat under quietly, — language so directly trenching on the constitution, is, I am afraid, a disagreeable symptom of want of health in the body politic. We have heard, it has been said, in justification of the subjects resisting law, and rebelling, that the original compact was broken by the legislative power, in one act of parliament, which was but a just and seasonable exertion of what stands the declared, asserted, and recognized power and right of parliament: and now a jurisdiction is to be given to the crown over the legislature, by a suspending power, by which every act of parliament may be broken. Is it lest parliament would again, as it was traitorously said last year, break the original compact by some other acts of parliament? How two such opposite opinions are to be reconciled, I know not! or how they can both be made to quadrate with a zeal for liberty, which has, perhaps, run wild; I leave that to those who hold and have given both opinions. But I think they are both dangerous opinions: and by much the more so

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that they are the opinions of the same persons, which puts their principles beyond the reach of my line. Thus much I will say, the dispensing power, and the sacredness of acts of parliament, are no jokes: they are not subjects, nor is it a season for levity to sport with. Your lordships' fathers thought them no jokes: and if such doctrine, as has this day been advanced, prevails or takes root in this House, I doubt the constitution must seek for sanctuary elsewhere than within these walls, the very hangings of which ought to put us in mind of the glorious deliverances English liberty and English spirit have obtained.

My lords, the noble lord calls upon any one to shew the act of parliament that hinders the crown from stopping the exportation of corn. I think many acts have been pointed out; and I shall not now go back to them. But as to the idea that all the statutes from Magna Charta down import no more than that the sea shall be open, I confess I do not understand it: it must be owing to my dullness. I have no notion of an act of parliament to make the sea open to our own subjects; there is not a single word to that purpose in Magna Charta, and I thought the controversy, that has loaded the world with learning as to 'mare clausum et apertum,' had only been between us and foreign nations. I hold it to be a fundamental law, that the sea is open to ourselves: and I wish the noble lord would point out a statute opening the sea to the subjects of England, where exportation had not been restrained by some antecedent law. But I can surely tell the House of some laws relating to this very matter of the exportation of corn, which do much more than make the sea open: for the Bounty Act makes the treasury open too, and gives the exporter an indefeasible right, unless taken away by act of parliament, to a reward, in certain cases, for carrying his corn to the open sea. Whether it be true or not what a noble lord said of the corn having been made too much an article of commerce, is not the present enquiry: but so the law stands: and it has proved a beneficial law to the nation, not only by promoting agriculture, and bringing money from abroad, but by preserving plenty of corn at home, more than ever was known before: and by saving the great expence to the nation, occasioned by frequent scarcities that prevailed before these laws were made: and I do not think such a sudden instance of scarcity as the present, or the present benefit to the public, from the stopping of the exportation by the royal power, will appear to be a sufficient ground for vesting in the crown a dispensing power, as a subsisting right, in order to suspend these laws when parliament is not sitting, or till it meet, even under the favourable colour, or for the necessary end of preventing famine.

The noble lord has, indeed, been pleased to say, that Brutus would have entrusted Nero with such a power. A noble lord has already given this good answer: that though Brutus might have entrusted Nero with that power, Brutus would have been very sorry if Nero had exercised it when not entrusted to him. I will add to that answer, that however Brutus might have entrusted Nero safely with a single act which could do nothing but good, he certainly would not have chosen to entrust the best of the Cæsars that ever governed the Roman empire, with a power, under which, for one good act of a Titus, a Nero might have done as many bad as he pleased, and swallowed up liberty entirely. Such and no other is the suspending power, under which the act in question is justified by the noble lord as an act of legal prerogative.

The noble and learned lord, the better to accommodate the present case to the great principle of 'salus populi,' and to prove the embargo to be within the inherent power of the crown, upon that principle, has pointed at a similarity between the stopping of the exportation of corn, and the obliging to the performance of quarantine. And the noble lord asks, Where is the act of parliament that enables his Majesty to impose quarantine, all the statutes on the head being only to regulate it? Now for answer, I hope I may have leave to ask a question in my turn, to make the two cases parallel: and my question is, Where is the act of parliament that forbids his Majesty to impose quarantine; or that enacts, that all ships, foreign and domestic, shall have free entrance into the ports of the kingdom without performing it? I know there is none, and such a law would be indeed absurd. But till such a law does exist, it is equally ridiculous to ask for one to impose quarantine, by repealing the other: for, most undoubtedly, it must be inherent in the executive power to have a right to use means to protect the nation from the plague, not only upon the general princi-

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ple, that the executive power may act in things for the good of the whole, where there is no prescription of law, but because self-preservation is a fundamental law interwoven in all government, as well as in the human frame: and the end of government is, to protect and defend the whole from all external evils, of which pestilence is among the worst. But not to rest on general principles, nobody can be so ignorant surely as not to know, that the power to impose quarantine is the prerogative of the crown, settled by prescription, and proved by immemorial usage, which gives it a legal beginning. The acts of parliament on the subject do not create, but recognize this prerogative. However, if I could suppose so senseless, and, perhaps I might say, so intrinsically void an act of parliament, as one to exempt from quarantine, I believe I should not scruple to break the law if I could, in a proper case, and trust to the justice of my country: but I should neither justify the breach under an act of the dispensing power, nor be a bit more ready to run the risk for the having such an illegal protection. I should think the principle of 'salus populi' applied to excuse the act, not to justify the power, a better shield. And at the same time, it is worth observation, that these very quarantine laws, confined as they are to regulations, prove how jealous parliament has been of leaving either the necessity or mode of it to depend upon the discretion of the prerogative, though the thing itself be a fair instance of the original, inherent, and just prerogative of the crown; these regulating laws being, as I understand them, of the nature of explanatory limitations of that part of the prerogative.

Another thing has fallen from the noble and learned lord on the woolsack, which I cannot help taking notice of. The noble lord has been pleased to complain of the other noble and learned lord on the cross bench, for declining to give a decisive opinion upon the legality of the embargo, because (as the noble lord on the woolsack expressed himself) of questions that may arise in his court. And the noble lord on the woolsack says, he does not ask what may be pleaded on a demurrer in the inferior courts? He stands on wider ground, and asks in parliament, what is sufficient to justify the act in question? It is very true, the noble and learned lord on the cross bench did decline giving an opinion at present, as to the legality of the embargo; and the reason he gave was a very fair one, having been informed, as his lordship says he has been, of actions being brought, which may come before a certain judicature. But his lordship very candidly, and with great perspicuity, stated what the legality would turn upon, if judicially tried; and mentioned how fit it might be to prevent such questions on this occasion by a law for that purpose. This was all very consistent, I think, though it has been glanced at as inconsistent, with the clear and firm opinion given by the noble lord upon the general point of the dispensing power, which his lordship, without hesitation, and in the true spirit of the constitution, condemned and spurned*. As for the question of the noble and learned lord on the woolsack, I own both parts of it strike me with surprize, as well what the noble lord does not, as what he does ask: and I would have that noble lord, instead of the question he states, ask what can justify an act questioned in any court of law, inferior or superior, but a legal defence? For certainly, if the embargo is not itself a legal act, within the known powers of the prerogative, it can afford no legal defence against any action brought into the courts of Westminster-hall. I am sure the noble lord on the woolsack can neither have forgot, nor can he differ from a very well-founded opinion, which he knows well has been given in one of these courts, and not a great while ago, 'That judges can decide only according to law, and are upon their oaths to pronounce what is law, and that they can regard nothing but law, not even votes of parliament.' Why then ask even in parliament, or in the House of Lords, sitting in its political, not in a judicial capacity, hearing no cause, nor having any cause before them. What is sufficient to justify any act, if a legal justification is

* The noble and learned lord on the cross bench declined, for the reason he mentioned, at that time giving any opinion on the legality of the embargo, on its own particular grounds of law; he has since had occasion to declare his opinion, that the embargo, by order of council, is a direct suspension of an act of parliament, and therefore illegal. In delivering this opinion, the noble lord made a most excellent speech, supporting it by the clearest principles of the constitution, and animated with the true fire of liberty; which has met with universal applause, and for which his lordship had (upon the spot) the warmest thanks of the known and most zealous friends of liberty and the constitution.

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meant? Were the House of Lords hearing a cause touching the embargo upon a writ of error, would any noble lord in the House, would the great judge who presides in that House, give his opinion upon any other ground than the known law of the land, which no opinion, even of the House of Lords in its political capacity, can alter? Courts of law will receive the law from parliament, and the expositions of it from the House of Lords, as the judicature of the last resort: but I hope they will always judge by the law, and by no other rule whatever. I trust never to see the time come again, when judges will pronounce upon the prerogative of the crown, as dictated to them by a prince or a minister, or even by a political opinion of either House of parliament.

There is but one thing more I can at present remember, of what dropt from the noble and learned lord on the woolsack. His lordship, aware of the great affinity between the suspending power, and that other usurpation of the crown which usually attended it, the raising money without consent of parliament, (as to which, and even the power of parliament in the matter, perhaps his lordship entertains some peculiar notions) has thought fit to make a distinction between these two powers; and the one, I mean that of raising money, his lordship totally condemns and explodes, though his argument of this day has been to support and maintain a degree of the other; that is, in cases of urgent necessity for the public good, and at least till parliament conveniently can be assembled.

The noble lord says, that the purses of the subject stand upon a different footing; that the matter of money has undergone many statutes, down from Magna Charta, and the statute that no taillage shall be levied, &c.; and, in short, that it is clear law and constitution, that no money can be raised but in parliament. And his lordship farther adds, that as to money, there never can be a pretence of necessity for raising it during the recess of parliament by an act of the crown, not even in case of the most imminent danger of invasion; because every body knows the difficulty of assembling forces, and of bringing an army into the field, with all its appendages of artillery and baggage, which occasions so much delay, even where there is no want of money: and how long time it would take to levy any money from the subject by such means as could be used in the greatest haste: so that there never could be any difficulty in convening the parliament before any thing could be done that way, and therefore no pretence to anticipate their meeting by such attempts.

I think the purse of the subject is very sacred, and that none have a right to put their hands in it but parliament. I go in that doctrine as far as the constitution carries me, and that is far enough for the security of the subject's property, though I have not any peculiar notions about the magical virtue of representation, and other dreams of that sort. The king and common council of the kingdom are the known, ancient, and acknowledged legislature; and I am not for loosening this pin of the constitution as to money, more than any other thing.

But I must at the same time fairly tell your lordships, that if the opinion I have as to the suspending power, or the raising money, which are, I am sure, brothers' children, stood upon any of the distinctions made by the noble lord, I should think it very poorly supported. Nor can I, in any sort or kind, distinguish between these two usurpations which always went together. I have one short logic for both: I have mentioned it before; namely, that the crown is not the supreme sovereign legislative power of this constitution: and that as money must be raised by parliament, whether the thing be taken on the more abstracted and radical principles of the original constitution, or on the statutes and usages respecting it, which I hold to be all but declaratory and explanatory, from the first to the last of them; so I think every other law, of whatever kind, must be both made and repealed, or suspended mediately or immediately, by the same legislative power that can alone raise money: and I know no greater degree of sacredness in those acts of parliament that secure the purse of the subject, than in those that secure to him the possession of every benefit of law he is entitled to enjoy. I see no difference between an edict of the crown to take money from the subject without authority of parliament, and one to keep money from him that he has a right by act of parliament to receive; and therefore I think the crown has not, in any case, a right to suspend the Bounty Act, by which the exporter of corn is entitled to receive so much money for every quarter he exports.

The princes who were put to shifts for raising money without consent of parlia-

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ment, because they quarrelled with their parliaments for not tamely surrendering the constitution and all their rights and liberties to them, had no other way of doing it but by levying and forcing money from the subject by various ways and devices. But if that trade were ever to be resumed, as the country is now situated, perhaps a fit state casuist might for once at least, or for a short while during the recess of parliament, fall upon a method of raising more money, without calling for a penny from the subject directly, than was ever raised by ship-money, loans, &c. Suppose only the king was to be advised by the casuists of state necessity, to suspend all the appropriating acts, and stop the issues at the exchequer to the public creditors, it would turn to a better account than when Charles 2 shut up his exchequer, to save paying his own debts, that would not be raising money without consent of parliament, but only suspending some acts of parliament: yet I believe this country would hardly furnish a minister bold enough to advise the project, even if an enemy were burning our fleet again at Chatham; which has been mentioned by one great judge as an instance of urgent necessity and immediate danger; though the noble and learned lord on the woolsack does not seem to think even that or any other exigency would be a pretence for raising money without the consent of parliament.

To me the dispensing and suspending power, and the raising of money without consent of parliament, are precisely alike, and stand upon the very same ground; they were born twins; they lived together, and together were, I hoped, buried in the same grave at the Revolution, past all power of resurrection; and as I think neither of them ever did belong to the crown, I cannot admit of any doctrine that maintains the one or the other. If I were to make a difference between raising money and the suspending or dispensing power, I rather think the suspending and dispensing power the most dangerous of the two, as that which might do most universal mischief, and with the greatest speed, as it includes the whole. I must therefore enter my most solemn protest, and I do it with all my heart, against the suspending and dispensing power in every degree, even to the smallest vestige of it.

But, my lords, I pledged myself to lay before you the grounds upon which I charge the servants of the crown in this business: and I think they are chargeable with the act itself, which is a dangerous infraction of the constitution, made yet more dangerous by the attempt to justify it under the pretence of prerogative; because, if they had done their duty, there would have been no occasion at all for such an act of power by the crown; and their not doing their duty, to prevent it, is only to be accounted for by the doctrine we have heard to-day, from which we learn, that the ministers had taken up the notion of a defensible dispensing prerogative, and were resolved to venture upon the exercise of it, rather than to call for the aid of parliament. So that the necessity which at last forced them to advise the crown to interpose, was not only of their own making, but of their choice, which caused them to prefer an exercise of power under the name of prerogative to a relief by law, under the authority of parliament. For had the ministers been of another mind, they would have called parliament, when they might and ought to have seen, nay, when the proclamation they caused to be issued against forestalling, &c. testifies they did see, that the remedy was wanted: and if parliament had been called even then, (as it ought to have been sooner,) a legal and more effectual remedy might still have been applied by the legislature, as early as the embargo by the crown took place; instead of which, parliament was not only not called, but was prorogued beyond the length of an ordinary prorogation; and still the remedy which then only could come from the crown, was delayed till it was unreasonably late, and the evil much increased by the injudicious procrastination. But even this is not all; for I shall also shew, that the conduct, or rather the misconduct, which produced the necessity for the crown to interpose at last, if it had been attended with no such consequence as a violation of the constitution, and an usurpation upon the rights of parliament, was, in itself, the most culpable neglect of the public safety, too gross to be reconcilable with any notion of the duty of those who undertake the care of the state, or with any measure of fitness for that situation.

I will say in general, that he is not a moderate minister, who will rashly decide in favour of prerogative in a question where the rights of parliament are on the side: and I am sure he is not a prudent minister, who, even in a doubtful case, commits the prerogative, by a wanton ex-

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periment, to what degree the people will bear the extent of it.

But, my lords, rashly, and wilfully, to claim or exercise as prerogative a power clearly against law, is too great boldness for this country: and of all things in the world, the suspending or dispensing power, that edged tool which has cut so deep, is the last that any man in his wits would handle in England: that rock which the English history has warned against with such awful beacons: an attempt that lost one prince his crown, and another both his crown and his head; and that at length expelled their family out of this land of liberty to the regions of tyranny, as the only climate that suited their temper and genius: a power, the exercise of which stands branded as the subversion of the constitution, in the front of that truly great charter of your liberties, the Bill of Rights. A minister who is not afraid of that power, is neither fit for the sovereign nor the subject.

I love a bold minister when he keeps in the true sphere. In times of distress and danger, boldness is a jewel: and with joy I have seen bold, even wild enterprizes succeed, though hardly within the die when undertaken. But the enemies of our country are the proper subjects of our boldness, not the constitution.

I must farther observe, that if parliament was either not called when it might have been called, or was prorogued, and prorogued to an unusual distance, when it ought to have been assembled, the power that has been exercised, as a pretended prerogative competent to the crown during the interval of parliament, is, even upon the principles argued from the other side, as mere an usurpation, as if those who contended for it, in that way, admitted what I maintain, that the power has no being at all, in any case or under any circumstances whatever. For it is precisely the same thing, upon the argument, as if the deputy or substitute, who has power to act only in the absence of a principal, should supersede the principal, merely by not calling for him, when there was occasion to act. And at the same time there cannot be a stronger demonstration of the exceeding great danger of this pretended prerogative of a suspending power, even under the restrictions conceded, than this, that the occasion which creates it, depends upon the crown itself, whose undoubted prerogative it is to call parliament, and fix the time of their meeting; so that there can at no time be any security against the exercise of this power, if there were a sinister view to be answered by exercising it.

This, my lords, at least we may venture to affirm, that if there were really such a prerogative, depending for its existence upon the recess of parliament, there would need to be the greatest imaginable circumspection observed in calling it as soon as practicable, when there was occasion for the exercise of the power, that it might be as short lived as possible, and as soon brought under the controul of parliament as could be. On the other hand, if necessity is the sole foundation of this dangerous power, or prerogative, whichever it be, it behoves those who advise the exercise of it, not only to see that the necessity is indeed invincible, but that it has not been occasioned by any fault of their own. For if it is not the one, the act is in no way justifiable: and if the other, that very necessity which is the excuse of the act, will be the accusation of those who occasion it; and in place of being justifiable in their conduct, they must be chargeable first with the blame of the necessity, and next with the danger of the violation of the law, as the drunken man who commits murder, justly bears the guilt both of inebriation and bloodshed.

But nothing can so well put the conduct of administration in the true light, which will shew it to be most indefensible, as a few facts, of which it will not cost many words to remind your lordships. And let me first beg your lordships' attention to the defence made for administration by themselves, as it has been given by two of the ministers. One noble lord in a great situation (the Secretary of State) has said, he was astonished when he found that in the act passed last session, there was no provision giving power to the king and council to prolong the prohibition beyond the 26th of August, and that he could hardly believe it. Another noble lord (my Lord President) says he was amazed when he made the same discovery; and to distinguish his greatness by a superiority above the trifles of the end of last session, he informs the House that he went to Bath before parliament rose, and did not know so much as whether it broke up in May or June. This is really an extraordinary tone of hurlo thrumbo greatness; and it may, for aught I know, carry a great air with it; but I think it is very strange language. And I fancy if your

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lordships find any other reason to join in the amazement and astonishment of these two great statesmen, it must be that they were both so ignorant of what it was their indispensable and most urgent duty to be acquainted with, and what I should imagine very few besides themselves did not know. The surprize can only be sunk in another wonder, still greater, that so unaccountable ignorance should be avowed and offered as an apology for the most inexcusable neglect of a most necessary duty, upon an attention to which the safety of the kingdom depended.

But when was it that these attentive ministers made this amazing discovery? So very early, we are told, as the last day of August or first day of September, when the prohibition by the last year's act was expired. And what was it that brought so immaterial an object, as an alarming scarcity, a threatened famine, under the consideration of the ministry? A letter which it seems was received from a watchful magistrate, the late lord-mayor of London, who is but an inferior minister of government, though in an office of great state and dignity.

Thus, by the ministers own account, from the middle of July, when his Majesty called them into his service, to the beginning of September, they had not once bestowed a thought upon the prognostics or proofs of a general scarcity, though it was the subject of writing in all the daily newspapers, the cause of disquiet in all quarters of the kingdom, and of conversation in every company, that of ministers, I suppose, only excepted:

'Sidera quis, mundumque velet spectare cadentem,
Expers ipse metus?'

The patriotic ministers, however, did not themselves feel; and if we may judge of things that are not seen by those which do appear, they were engaged in the more important business of settling who should cede that another might succeed, what reversion or pension one should have, and what compensation or increase of emolument another should have out of the overflowing treasury of this rich, opulent, and unincumbered country. Had a single hour of the many days spent in adjusting the arrangement for one office, been employed in consulting about the means of preserving bread to the poor, miserable, hungry, and oppressed subject: the flints that struck each other in that jostle for place, might have cast as much light upon the law at least, as to have shewn what the contents were of one, not to say of three acts of parliament to prevent scarcity and famine, passed but a few months before.

What were the circumstances of the country, when administration was in this callous, torpid, and benumbed state? If we compare them with the situation in which things were when parliament took up the consideration of the corn last session, and passed the several acts for securing a national supply, we shall not be able to avoid seeing a remissness and inattention in government, on this occasion, that is really not to be conceived, even after the ministers have told us, that truly they had not so much as once looked into these laws of last sesssion, so late as the 30th of August, when the lord mayor wrote to them.

In the petition of the city of London presented to parliament, which is dated the 17th of January last, it is set forth, that wheat for bread had for three months been from 39*s.* to 42*s.* In that situation parliament thought the matter worthy their attention, and that a remedy was necessary: and three bills were brought into the House of Commons, which all passed into acts; one to prohibit the exportation of corn; another for liberty to import oats and oatmeal; and a third for liberty to import American corn. These Bills passed the House of Commons about the 7th of February, after which they had their course through the House of Lords, and received the royal assent some time after, and your lordships will please to attend to it, that even before these Bills passed, wheat was come down to 35*s.* 6*d.*: and in April the best corn was down at 34*s.* 6*d.*, the worst at 32*s.*, owing to the remedy interposed by parliament: which your lordships see was so quick and immediate in its operation, that the prices fell even before the law was passed: of such importance and effect is the proper remedy, when applied by parliament seasonably and timely. Yet under that fall, 3 or 4*s.* below the prices upon consideration of which the city of London petitioned and the parliament proceeded to bring in bills, did the legislature judge fit to pass the several laws; and very wisely, because their not doing so would have had just the contrary effect, and have raised the prices above what they were, when the matter was taken up, for the same reason that the

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doing of it lowered them so greatly immediately.

The Prohibition Act was made to expire the 26th of August, and the two others for liberty of importation expired the 29th of September: and there was no power given by the act to the king and council to continue the prohibition. So much for what past last session.

Now for what concerns the ministry of this year, to shew their attention. By the weekly returns of the prices at Bear-key, it appears that upon the 28th of July (by which time I believe the administration had taken its form, for the dictator was set to work about the 12th) wheat was at 44*s.* that is two shillings above the highest price when the city of London petitioned parliament in January, and no less than 8*s.* 6*d.* higher than when the bills of last session passed. August the 4th it was 45*s.*, advanced a shilling; August 11th it was 43*s.*; August 18th, 44*s.*; 25th, at 45*s.*; and by September 18th it was got up to 48*s.* 3*d.*; and was at 49*s.* on the 15th and 22nd of September.

The prices at Bear-key are the barometer for plenty and scarcity, which the law has pointed out to magistrates, and to ministers too, unless it be no part of the duty of ministers to take care of the provision of the country, because they have not, like the lord mayor and aldermen, the assize of bread to set weekly. The authentic and legal information is at hand, if they will but send to Bear-key or Guildhall for it: and one would think that ought not to be omitted at any time when the state of the country as to corn is but doubtful or suspicious. In a year when there had been a scarcity, and no less than three temporary acts of parliament to provide against it, such an omission must be deemed strange inattention, an unaccountable neglect.

From the list of prices I have given your lordships, you see how much worse the state of the country was in the months of July and August, than when parliament was applied to last session; still more so than when the acts of last session passed: and the state of the weather we all know was for a long time most threatening, especially coming after a year of scarcity. God knows what would have been the case, if the season had not taken a favourable turn towards the harvest, as in kind providence it did: yet all this while, not the least mark of care in administration. The ministers who had the watch, instead of looking out, seem to have been the only quiet and unconcerned persons in the kingdom; they did not so much as enquire whether government was armed with a power of prohibition.

This is really hard to be credited. If the ministers had no friends to inform them of the expiring laws, surely their own reflection, had they used any, might have told them long before the 26th of August, that there was too great a probability some farther remedy would be necessary. And parliament (if it had been worth while to give any attention to what they had done) had marked a line of direction for administration, with the greatest exactness, by making the prohibition continue till the 26th of August, and no longer; because there could not sooner be any supply from the new crop, and it must before then be known what the harvest was, and how the crop turned out: so that if, by disappointment in crop, there were need for a fresh prohibition or other remedy, parliament could be called in time to apply it. Parliament had thereby given at the same time, the most explicit testimony, not only that they understood it to be their province to give the remedy, but that they had now reserved the cognizance of the affair to themselves, not chusing to delegate it to the crown, even during the recess, as had been done frequently before. If administration had chosen to follow the line given them by parliament, they had a plain path to walk in; which was no other than this, to keep their eye upon the state of the country; and if there appeared to be the least hazard of the need of a farther prohibition, to keep the prorogation of parliament upon such a foot, as that it could be called in time, and with a reasonable notice too; a method that the Journals shew has been often practised on like occasions. Instead of this, administration took no thought, gave no attention to the matter at all; and of themselves neither did nor shewed any intention to do any thing, notwithstanding the circumstances of the country, as events turned out, made the affair of such consequence.

But was the conduct of administration a bit better, or wiser, or more like government, when they were waked out of their first sleep, and goaded on to their duty, by others to whom their country was more obliged? Not one whit; but if possible rather worse. Of this also there is the fullest evidence.

After waiting till the end of August,

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when the state of the country was beyond conjecture, the lord mayor of London, in the letter which he wrote to the three great ministers, told them the stock of grain on hand was very small; that the harvest had failed, and was unproductive; and that there were then (already) come commissions for buying up corn here, unlimited in price, and to an immense extent; that therefore it was indispensably necessary some measure should immediately be taken to stop the exportation, otherwise the kingdom would very soon be drained, and a want at home. This was material information indeed, and it was as authentic as material; for your lordships will reflect from whom it came; not only from the chief magistrate of the metropolis, but that magistrate himself the best informed that any one could be, from his private situation, being the greatest corn-factor in England, perhaps in Europe; a worthy and sensible gentleman, well known in both houses of parliament, where he has often attended on occasions relating to corn, called upon as the ablest in the kingdom to give information in these matters. Such was the person who gave this information to government: and it was the more worthy of regard, and ought to be mentioned to his honour, that his duty as a citizen of the commonwealth, as well as a magistrate, in the high office he then bore in the city of London, prevailed over his own private interest, as there was not another man in the kingdom so much interested in the profit to be had by the commissions from abroad. It were to be wished, though I am not enthusiastic enough to hope it, that such an example of disinterested patriotism and public virtue would ascend. But in late transactions, my lord mayor's vigilance in his office as a magistrate, has not been more woefully contrasted by the neglect of ministers, than his noble contempt of gain in his private character as a man, by the pensioned avarice of his superiors; an excellent foil to illustrate the splendour of his virtues!

What did this information produce? Just nothing; at least nothing for the relief of the country. My Lord Privy Seal and the Secretary of State went to statute books before unopened, not dog-eared, and there made the amazing, astonishing discovery, that the act of parliament of last session gave no power to the king and council to prolong the prohibition. There government rested: the kingdom was left to be amazed in their turn, and my lord mayor's letters added to the lumber of the public offices.

The consideration of some weighty and important affairs thus forced upon administration, was yet laid aside for some days; and your lordships will not forget, that at this time parliament was not prorogued, though there had been no thought of calling it, as there should have been much sooner; and if it had been called when my lord mayor's letter came, which represented the indispensable necessity there was of taking some measures, and when the wonderful discovery was made that no powers were left with the king and council, it might have been assembled by the 20th of September, on twenty days notice, which even the noble lord on the woolsack has condescended to agree would be due notice; or if six days more had been given, still it might have met to apply the legal constitutional relief as early as the time when the dispensing power was exerted under pretence of the recess of parliament.

It would seem, however, that after a week or ten days consideration, it was thought necessary to put some mark of respect upon my lord mayor's letter: and it has been said, that a council was held about the 8th of September, when, by the Bear-key prices, wheat was only at 48*s.* 3*d.* But that council ordered no embargo; neither was it judged reasonable or necessary to call parliament. The council however, did somewhat, rather I think to amuse and shew their ignorance than any thing else; though it is like the amusement in the fable of the frogs. Accordingly that wise and useful proclamation against forestalling was brought forth, bearing date the 10th of September: and for quieting the minds of the poor starving people, and ministering present and effectual relief to their distress, it publishes this comfortable news, that the prices of corn are already very much increased, and the same is likely to grow much dearer, to the great oppression of the poor. The people cry for bread, and the ministers gave them a proclamation; nay, lest one should not be enough, they gave them two of the same date, and in the same Gazette; and the second much worse than the first. I cannot on this occasion drive from my mind these words of the scripture, which say, 'If a son ask bread from any of you that is a father, will he give him a stone? Or if he ask a fish, will he

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for a fish give him a serpent? Or if he shall ask an egg, will he offer him a scorpion?' Perhaps two such proclamations never were coupled together. The one proclaims a growing dearth, when the ports were by law open for the free exportation of every ounce of grain in the kingdom, with the highest temptation to export, by an unlimited demand from abroad, to prevent which no remedy could be legally applied but by authority of parliament: and under these circumstances does the other proclamation prorogue the parliament to the 11th of November, sixty-one days.

If it had been the purpose or determination of government to aggravate rather than to alleviate the distress of the country, and by driving to despair, to promote insurrection and fire, what more effectual method could have been pursued? I speak to facts; and it is well they are proved, for I should not expect to be believed without evidence. What were the consequences? The question may well be asked; but I shall not answer it, for fear I should seem to justify what I condemn and regret.

But I will tell your lordships what happened after these proclamations. Wheat that was at 48*s.* 3*d.* on the 8th of September, was at 49*s.* on 15th and 22nd: and there were risings, riots and tumults, in all corners of the kingdom, and troops marched from county to county, to quell insurrections by military force: famine and the sword met: murders have been, and executions must be: the laws trampled upon and transgressed by the people: acts of parliament from a careless necessity broken, and suspended by power without right, royal authority, that is, unfounded prerogative, (for royal authority and prerogative are synonymous convertible terms): royal authority, I say, exerted against law. For at last, when no legal remedy was left for an insupportable evil, the Embargo by order of council, that violent, but then necessary, and also inadequate remedy, was issued the 26th of September. It was forced by the cries and risings of the people, and by petitions from the great cities, and particularly the petition presented to the King on the 23d, from the lord mayor and court of aldermen of London, who could no longer remain silent spectators of the distress and danger, which near a month before had been represented in such strong terms to the ministry, by their worthy and vigilant chief magistrate, in a more private capacity and form.

As to what has been said in the debate, that the facts laid before the council on the 10th of September, which issued the proclamations against forestalling, and for proroguing the parliament, were not sufficient foundation for their proceeding to an embargo; that it was then only a surmise of scarcity; and that the circumstances were so much changed before the 26th, when the embargo was ordered, that it could be no longer delayed; I own I cannot understand what it means; for we see by the Bear-key returns, that (as already mentioned) wheat was at 48*s.* 3*d.* on the 8th of September, that is, above the bounty price; and it was but 9*d.* higher, viz. 49*s.* on the 22d of September. But the order for an embargo is really the ministry's indictment drawn up by themselves: for it sets forth as its ground the very information that the lord mayor of London had given the ministry 26 days before; and upon those grounds of urgent necessity now impending, that is, that they had been certified of as impending a month before, and for the safety, benefit, and sustenance of his Majesty's subjects, his Majesty then only, by the advice of his privy council, orders an embargo on wheat and wheat flour, and nothing else. And the necessity of laying it on by the royal authority is stated in these expressive words: 'And whereas the parliament standing prorogued to the 11th of November next, his Majesty has not an opportunity of taking the advice of his parliament speedily enough upon the present emergency, to stop the progress of a mischief daily increasing, and which, if not immediately provided against, might be productive of calamities past all possibility of remedy:' a very just account of the situation of things that had been the present emergency for the two preceding months, and of the necessity of the speedy remedy that had been so unaccountably delayed to be applied in any way during that time, and that a voluntary act of administration, in the prorogation of parliament, when the emergency was come to the worst, had rendered impracticable in the legal and proper way. But the most curious part of the whole is, that the want of an opportunity of advising speedily enough with the parliament, is spoken of as a common or unavoidable and unforeseen casualty, though the ministry themselves were the cause that his Majesty

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could not then have, and had not even sooner had, that opportunity.

But if the proclamation for the Embargo is considered as a remedy, even this act of power now justified as prerogative, was itself but the crowning blunder, by confining the Embargo to wheat and wheat flour. The wisdom of parliament extended their prohibition, under less pressing circumstances and lower prices, to all grain, and every thing of corn kind, bread, biscuit, and starch. And one would have thought, that when the crown was advised to suspend acts of parliament for the public good, the dispensing power might also, for the greater good of the public, have paid that compliment to the act of parliament, to have followed it fully, and not in a part only, when the whole prohibition was far more necessary than at the time the law was made: not to say that the example of parliament was at least a sort of shelter for a prerogative usurpation upon its power. But even without resorting to the wisdom of parliament for instruction, such an error as the omission of prohibiting the exportation of all manner of grain in the proclamation, could not have been fallen into, without either the greatest inattention, or most amazing unskilfulness; for hardly any body is so ignorant as not to know that a diminution of any one species of grain, not only raises the price of that particular species, but affects all the rest, because of the increase of consumption of these occasioned by the want of the other. And so the exportation of barley, which was not restrained by the Embargo, has contributed to keep up the price of wheat, besides enhancing that of malt to an intolerable degree.*

If parliament had been called in time, there might have been a more early, and there certainly would have been a more adequate and satisfactory remedy applied to the evil; and the very prospect of the meeting of parliament would have kept the people quiet, as they will always have more confidence in parliament than in any administration, and will patiently wait for the relief for which they naturally look up to the legislature. But in a ministry that from the beginning had paid no attention to the calamity, either in its presages or effects, and that cut off all hopes of parliamentary relief by a prorogation, when they proclaimed the evil to be come to a great height, and still growing; in such a ministry the people could take no confidence, nor could they indeed be expected to continue quiet under such circumstances. From ministers capable of blundering so grossly in so plain and necessary a business as the care of provision for bread to the kingdom, what may not be expected of the blundering kind, in other matters of more difficulty, for of more importance there can hardly be any? With steersmen at the rudder so inexpert in our own ports, the ship is not to be trusted in the wide sea.

Some pretences have been made, I cannot call them excuses, for not calling the parliament, which has been the *origo mali*. One noble lord speaks in a contemptuous stile; he says, all the difference is, that the King has been advised by his Little instead of his Great Council.

This way of speaking is unconstitutional and ridiculous. I hope parliament will always maintain its own super-eminent distinction, and mark it so as it shall not be the by-word of any minister, by shewing on this, and every other occasion, that the King's privy council, which the noble lord calls the little council, is, indeed, little in comparison of the great council of the nation, as well as of the crown; and that this little council, or any one man, who dictates to them, never shall be entrusted with the power of suspending or dispensing with the standing law of the land, on any pretence whatever. If that were allowed of, there is no law so fundamental but might be subverted, nor any government more absolute than that which might be introduced.

The noble lord says, 'he does not enquire whether my lord mayor's letter was wrote a day sooner, or a day later.' There is a littleness, says he, in minding dates of proclamations,—the day of laying the Embargo, of proroguing the parliament,

* The parliament lost no time in remedying, as fast as they could, the blunders of administration. They revived the Prohibition Act in its full extent; renewed the two other acts before mentioned, which expired on the 29th of September; and have taken other wise and necessary precautions. But that there might be no public act with regard to this great concern, the prevention of famine, executed by administration, without sone egregious blunder, and some glaring proof of ignorance and inattention, the privy council, though they had a power to prohibit distillation till twenty days after the meeting of parliament, prohibited it only for three. In consequence of which, all the distillery might go on till the act passed to stop it.

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and the day fixed for its meeting. These are *minutiæ* beneath notice: saving a country from ruin is a great object. He goes to the great object of preventing famine.

Saving a country from famine is a great object; but it may depend on nothing so much as *minutiæ*, such as the noble lord would overlook. It did depend upon such *minutiæ* as dates in this instance; and the oversight promoted the famine, which attention might have prevented sooner, and to much better effect. But surely no instance can ever be more unfortunate, of contemptible *minutiæ*, than that of minding of days and dates, when the safety of a country is concerned. States have perished by the neglect of an hour, and moments have decided the fate of empires. The prorogation of parliament, in such a season of calamity and danger, was no minute blunder. Last year that noble lord said he could not commend the then administration for calling parliament early, as they termed it, because he thought their speed was delay, in such a conjuncture as that was; though the ground of his complaint of delay was not that America had been suffered to continue in rebellion for months, but that so much time had been lost in giving these poor oppressed subjects relief from the grievances, which he thought justified their mutiny. Now when one greater and wiser than all other men is minister, days and dates are *minutiæ*. It is his prerogative to blunder and be blameless.

But, says the noble lord, parliament could not have been conveniently assembled sooner. It may do for great ministers who live at their fine palaces in the neighbourhood of the capital, to come up here at any time;—and to be sure any man may get upon the back of a post horse, and ride as fast as he can: but it will not suit all the members of the two Houses, that are to be brought from the East and the West, from the South and the North, of this large kingdom, to call them from their houses and their domestic affairs, at an inconvenient season, and upon short notice. This cannot be done without notable inconvenience: and nothing is so dangerous as surreptitious meetings of parliament. The great security of our liberties consists in calling parliament upon full notice, to prevent all surprize: and by surreptitious conventions, 'all countries that have been enslaved, have lost their liberties;' of which confident assertion, he however neither did, nor can give one instance from any history.

Must we then, my lords, for fear of a surreptitious surrender of our liberties by parliament, trust the privy council with a power that would subvert our liberties, and render our property precarious? But can the lowest number of lords and commoners that can make a parliament, be less safe than the little council? The law of the land has taught me, that parliament assembled without any notice at all, is a better security for our liberties than any privy council, and therefore, upon the critical emergency of a demise of the crown, parliament is by a statute appointed to assemble immediately, however it may happen to stand prorogued at the time. So jealous is the constitution of a pretence left to the successor to the throne to govern with his privy council without parliament. But, my lords, it is very extraordinary to hear the danger of a surreptitious assembling of parliament, used as an argument against haste in a season of imminent danger, by those who argue for necessity as sufficient to suspend and dispense with laws and acts of parliament! Is there more safety in making necessity a law-maker, or a 'lex temporis,' than in making it only a hasty convener of the true legislature of the kingdom? My lords, ministers may not be fond of the meeting of parliament, even when they do not fear much harm from it to their power; because, though it does not immediately or certainly destroy, it puts them to mind, in the midst of their arrogance, that they are mortal, like the slave in the triumphal car. For my part, I have no fear of parliament, called any how: but I have great fear of a power in the privy council that would supersede parliament. It was the rump of a well weeded parliament that abolished the monarchy, but no proclamation can garble either a House of Lords or Commons: and before any number assembled surreptitiously could sit long enough to attempt a surrender of our liberties, the most distant member, who did not chuse to be a slave, would find his way to Westminster, if the back of a post horse would carry him; and the traitors would very soon find that they had only forfeited their own heads, to confirm the liberty of their incensed country. In the present case, however, there was no occasion for a hasty convocation of parliament. Government needed not to have been run to the *minutiæ* of

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hours or days. Had parliament been called, even when it was culpably prorogued, it might have had a longer notice than many sessions have sat upon. Nor can I see any notable inconveniency in calling it so soon, unless that the noble lord could not have stayed so long at the waters, as I presume it could not have safely met with his lordship's presence to guide it. As to forty days notice being necessary for calling parliament, it is an assertion without all foundation, contradicted by usage, and by the very style of the usual proclamations which speak only of due and convenient notice; to effect which, there is no charm either in the number forty, thirty, or any other. I was surprized to hear the noble and learned lord say, he held it to be the law of parliament, that forty days was necessary. There is no such 'mos parliamentarius.' And the noble lord must have forgot himself: for in the very first year of this reign, parliament was called and sat for dispatch of business on twelve days notice by proclamation. The noble lord knows who then advised his Majesty, and was in the first office in the kingdom. But if it were necessary to go into them, numberless instances since the Union are ready to be pointed out, of parliament being called and sitting on twelve, sixteen, twenty days, and other indifferent numbers: and the noble and learned lord is unsupported in this opinion, which is, indeed, totally a mistake; the other noble and learned lord on the woolsack having agreed that twenty days is due notice. There remains, therefore, no cloak or excuse for the blunder of proroguing parliament for sixty-one instead of forty days, at a time when it was so necessary to have assembled it upon the shortest notice for which there was any precedent; and when, if it had been called even upon twenty days from the date of the proclamation proroguing it, it would have prevented the necessity for an embargo by the crown against law, and hindered those dangerous tumults and insurrections that at last extorted an act of such dangerous example from administration.

My lords, the occasion is my apology for having said so much; yet it is but a small part of what might have been said on the subject, upon which I have taken the liberty to trouble you.

My lords, I am not afraid of the just prerogative of the crown. It is a part of the constitution, and it is salutary. 'The people's liberties strengthen the King's prerogative, and the King's prerogative defends the people's liberties.' So said the unfortunate prince Charles the First. But he said it falsely and deceitfully, applying it to his own depraved principles of government, in which he was nursed up to his ruin, by a father who never sat in that chair, but he taught, like a royal professor, the doctrines of arbitrary power to your lordships' ancestors, who were but unapt scholars. What the self-deluded and self-destroyed king said deceitfully, I think sincerely in the just sense.

Neither, my lords, do I fear the power of the crown, in the hands of the gracious prince now reigning. He made it his early declaration from the throne, that our liberty was as dear to him as his own prerogative: and I trust a long line of illustrious descendents sprung from him, will inherit his zeal for the liberties of this country, the laws of which transferred the imperial diadem of these realms from those who were not worthy of it, to his Majesty's august House. The freedom of the subject is the brightest jewel in the crown. It is the super-eminent prerogative of the kings of England, by which they excel in glory all the sovereigns on earth, that they rule over freemen, not over slaves. The Brunswick line esteems it so: they have shewn it.

But, my lords, I dread principles, the scars of which this nation yet bears:—Principles destructive to the people, dangerous to the prince:—Principles that lie at the root of all the illegal prerogatives usurped, and all the arbitrary power exercised by a Charles or a James.

These principles I will resist, adopt or countenance them who will. I will resist them not more from regard to liberty, than from love to my sovereign and his family. They are poisonous principles, and they are infectious. If it were possible to deceive even the elect family—to impose upon a prince of that House chosen to maintain our liberties, it could only be done by principles found in the mouths of the professed friends of liberty, who have got access to the royal ear by such professions. The safety of the crown, as well as the security of the subject, requires us to shut up every avenue that could lead to tyranny: and he who would unbar those gates which exclude it, is not, in his heart, far from the lust of it. I will suspect no man without a cause: but I will trust no man with what the constitution has not

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made a trust; with any power that must do a general mischief; though, in a particular emergency, it might have a chance of doing some good. Such a power I will not trust in the crown; no, not for a case of necessity. For as lord Falkland, while he remained the advocate for liberty, and before he listed in the service of King Charles's despotism, said, speaking of the ship-money judges, and their criminal opinion, 'When that necessity, which they would have so absolute and certain, takes place, the law of the land ceases; and that of general reason and equity, by which particular laws at first were framed, returns to the king's throne and government, where 'salus populi' becomes not only 'suprema,' but 'sola lex;' at which, and to which end, whosoever dispenses with the king, dispenses with us, to make use of his and one another's.'

My lords; men are but men. Unwise and unsafe trusts are the surest inlet of treacherous and infamous breaches of trust. The history of England shews how quickly and shamefully heroes for liberty have become tools of despotism. But, to use words I have heard from a certain noble lord, when such expressions served his turn,—If we see an arbitrary and tyrannical disposition somewhere, the call for watchfulness is loud. Danger knocks at the gate. A tyrannical subject wants but a tyrannical-disposed master, to be a minister of arbitrary power. If such a minister finds not such a master, he will be the tyrant of his prince, as much as of his fellow servants and fellow subjects. I should be sorry to see my sovereign in chains, even if he were content to wea them; to see him unfortunately in chains, from which, perhaps, he could with difficulty free himself, till the person who imposed them runs away; which every good subject would, in that case, heartily wish might happen, the sooner the better for all. We are a free people; and I am for a free king.

1767.

Speech of Lord Mansfield in the House of Lords, in the Cause between the City of London and the Dissenters.] It is proper the reader should be apprized, previous to the perusal of the following Speech, that in 1748, the corporation of London made a by-law, with a view, as they alledged, of procuring fit and able persons to serve the office of sheriff of the said corporation; imposing for that end a fine of 400*l.* and twenty marks upon every person who, being nominated by the lord mayor, declined standing the election of the common hall; and 600*l.* upon every one who, being elected by the common hall, refused to serve the office. Which fines they appropriated to defraying the expence of building the Mansion-house.

Many Dissenters were nominated and elected to the said office, who were incapable of serving; it having been enacted by the Corporation Act, (13 Car. 2, stat. 2, c. 1.) that no person should be elected into any corporation offices, who had not taken the sacrament in the church of England within a year preceding the time of such election; and several of them accordingly paid their fines, to the amount of above 15,000*l.* Some at length refused to pay their fines, apprehending they could not be obliged, by law, to fine for not serving an office to which they were, by law, uneligible. The city, therefore, brought actions of debt against them in a court of their own, called the Sheriffs' court, for the recovery of those fines. After many delays the cause came to a hearing in the case of Allen Evans, esq., and judgment was given for the plaintiff in September 1757. The defendant Evans brought the cause before the Court of Hustings, another city court, to which an appeal lay; and the judgment was there affirmed by the Recorder in the year 1759. The defendant then, by writ of error, brought the cause before the court of judges delegates, called the Court of St. Martin's: the delegates were, lord chief justice Willes, lord chief baron Parker, Mr. Justice Foster, Mr. Justice Bathurst, and Mr. Justice Wilmot. Lord chief justice Willes dying before judgment was given, the rest of the delegates delivered their opinions *seriatim*, July 5, 1762, and unanimously reversed the judgment of the Sheriffs' court, and Court of Hustings. The corporation then, by writ of error, brought the cause before the House of Lords, when all the Judges who had not sat as delegates, except Mr. Justice Yates, who was ill, gave their opinions *seriatim*, Feb. 3rd and 4th, 1767, upon a question put to them by the House. After which lord Mansfield, in his place as a peer, made the following Speech.

It is proper, however, as an introduction to it, to prefix the question which the House of Lords put to the Judges; as also their Opinions upon it: a question which

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the noble lord who moved it hath worded with such precision, that it is hardly possible the point on which the cause turns should be mistaken on any future occasion.

January 22, 1767. Counsel, according to order, were called in to be farther heard in the cause upon a writ of error brought into this House, wherein the Chamberlain of the city of London is plaintiff, and Allen Evans, esq. defendant: and the counsel for the defendant having been heard, as also one counsel for the plaintiff by way of reply, the counsel were directed to withdraw. And it being proposed, that the Judges be directed to deliver their opinions upon the following question:

Q. Whether, upon the facts admitted by the pleadings in this cause, the defendant is at liberty, or should be allowed to object to the validity of his election on account of his not having taken the sacrament according to the rites of the church of England within a year before, in bar of this action?

The same was agreed to, and the said question was accordingly put to the Judges.

Whereupon the Judges desiring some time might be allowed them for that purpose,

Ordered, That the farther hearing of the said cause be adjourned till Tuesday next; and that the Judges do then attend to deliver their opinions upon the said question.

January 27. The order of the day being read for the farther hearing of the said cause, the Lord Chancellor acquainted the House, that the Judges differed in their opinions, and that they desired that farther time might be allowed them for giving their opinions upon the said question.

Ordered, That the farther hearing of the said cause be adjourned to this day sevennight; and that the Judges do then attend to deliver their opinions upon the said question.

February 3. The order of the day being read for the farther hearing of the said cause, and for the Judges to deliver their opinions upon the question proposed to them on Thursday the 22nd of January, the Lord Chancellor acquainted the House, that the Judges differed in their opinions; and thereupon they were directed to deliver their opinions *seriatim*, with their reasons.

Accordingly, Mr. Justice *Hewitt* was heard, and gave his reasons, and concluded with his opinion, That the defendant is at liberty, and should be allowed to object to the validity of his election, on account of his not having taken the sacrament according to the rites of the church of England within a year before, in bar of this action.

Mr. Justice *Aston* heard, and was of the same opinion, and gave his reasons.

Mr. Baron *Perrott* heard, and gave his reasons, and concluded with his opinion, That the defendant is not at liberty, nor ought to be allowed to object to the validity of his election on account of his not having taken the sacrament according to the rites of the church of England within a year before, in bar of this action.

Mr. Justice *Gould* heard, and was of the same opinion as Mr. Justice Aston, and gave his reasons.

Ordered, That the farther consideration of the said cause be adjourned till to-morrow; and that the Judges do then attend.

February 4. The order of the day being read for the farther hearing of the said cause, and for the Judges to attend,

Mr. Baron *Adams* was heard, and gave his reasons, and concluded with his opinion, that the defendant is at liberty, &c.

Mr. Baron *Smythe* heard, and was of the same opinion, and gave his reasons.

Mr. Justice *Clive* heard, and was of the same opinion, and gave his reasons.

As soon as the Judges had given their opinions, lord Mansfield made the following Speech:

LORD MANSFIELD'S SPEECH in the House of Lords, in the Case of the Chamberlain of London against Allen Evans, esq.

My lords; as I made the motion for taking the opinion of the learned judges, and proposed the question your lordships have been pleased to put to them, it may be expected that I should make some farther motion, in consequence of the opinions they have delivered.

In moving for the opinion of the Judges I had two views: the first was, that the House might have the benefit of their assistance, in forming a right judgment in this cause now before us, upon this writ of error: the next was, that, the question being fully discussed, the grounds of our judgment, together with their exceptions, limitations, and restrictions, might be clearly and certainly known, as a rule to be followed hereafter in all future cases of the like nature: and this determined me as to the manner of wording

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the question, 'How far the defendant might, in the present case, be allowed to plead his disability in bar of the action brought against him?'

The question, thus worded, shews the point upon which your lordships thought this cause turned; and the answer necessarily fixes a criterion, under what circumstances, and by what persons, such a disability may be pleaded, as an exemption from the penalty inflicted by this by-law, upon those who decline taking upon them the office of sheriff.

In every view in which I have been able to consider this matter, I think this action cannot be supported.

If they rely on the Corporation Act—by the literal and express provision of that act no person can be elected, who hath not within a year taken the sacrament in the church of England; the defendant hath not taken the sacrament within a year; he is not therefore elected. Here they fail.

If they ground it on the general design of the legislature in passing the Corporation Act, the design was to exclude dissenters from office, and disable them from serving. For in those times, when a spirit of intolerance prevailed, and severe measures were pursued, the dissenters were reputed and treated as persons ill affected and dangerous to the government: the defendant therefore, a dissenter, and in the eye of this law a person dangerous and ill affected, is excluded from office, and disabled from serving. Here they fail.

If they ground the action on their own by-law, since that by-law was professedly made to procure fit and able persons to serve the office, and the defendant is not fit and able, being expressly disabled by statute law: here too they fail.

If they ground it on his disability being owing to a neglect of taking the sacrament at church, when he ought to have done it; the Toleration Act having freed the dissenters from all obligation to take the sacrament at church, the defendant is guilty of no neglect, no criminal neglect. Here, therefore, they fail.

These points, my lords, will appear clear and plain.

The Corporation Act, pleaded by the defendant as rendering him uneligible to this office, and incapable of taking it upon him, was most certainly intended by the legislature to prohibit the persons therein described being elected to any corporation offices, and to disable them from taking such offices upon them. The act had two parts: first, it appointed a commission for turning out all that were at that time in office, who would not comply with what was required as the condition of their continuance therein, and even gave a power to turn them out, though they should comply: and then it farther enacted, that from the termination of that commission no person hereafter, who had not taken the sacrament according to the rites of the church of England within one year preceding the time of such election, should be placed, chosen, or elected, into any office of or belonging to the government of any corporation: and this was done, as it was expressly declared in the preamble to the act, in order to perpetuate the succession in corporations in the hands of persons well affected to the government in church and state.

It was not their design, as hath been said [by Mr. Baron Perrott], 'to bring such persons into corporations, by inducing them to take the sacrament in the church of England;' the legislature did not mean to tempt persons, who were ill affected to the government, occasionally to conform: it was not, I say, their design to bring them in; they could not trust them, lest they should use the power of their offices to distress and annoy the state. And the reason is alledged in the act itself; it was because there were 'evil spirits' amongst them; and they were afraid of evil spirits, and determined to keep them out: and therefore they put it out of the power of electors to choose such persons, and out of their power to serve; and accordingly prescribed a mark or character, laid down a description whereby they should be known and distinguished by their conduct previous to such election; instead of appointing a condition of their serving the office, resulting from their future conduct, or some consequent action to be performed by them; they declared such persons incapable of being chosen, as had not taken the sacrament in the church within a year before such election; and without this mark of their affection to the church, they could not be in office, and there could be no election.

But as the law then stood, no man could have pleaded this disability, resulting from the Corporation Act, in bar of such an action as is now brought against the defendant; because this disability was owing to what was then in the eye of the law a crime; every man being required by the canon law, received and confirmed by sta-

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tute law, to take the sacrament in the church at least once a year: the law would not permit a man to say, that he had not taken the sacrament in the church of England; and he could not be allowed to plead it in bar of any action brought against him.

But the case is quite altered since the Act of Toleration: it is now no crime for a man, who is within the description of that act, to say he is a dissenter; nor is it any crime for him not to take the sacrament according to the rites of the church of England: nay, the crime is, if he does it contrary to the dictates of his conscience.

If it is a crime not to take the sacrament at church, it must be a crime by some law; which must be either common or statute law, the canon law inforcing it depending wholly upon the statute law. Now the statute law is repealed as to persons capable of pleading that they are so and so qualified; and therefore the canon law is repealed with regard to those persons. If it is a crime by common law, it must be so either by usage or principle. There is no usage or custom, independent of positive law, which makes nonconformity a crime. The eternal principles of natural religion are part of the common law: the essential principles of revealed religion are part of the common law; so that any person reviling, subverting, or ridiculing them, may be prosecuted at common law. But it cannot be shewn from the principles of natural or revealed religion, that, independent of positive law, temporal punishments ought to be inflicted for mere opinions with respect to particular modes of worship.

Persecution for a sincere, though erroneous, conscience, is not to be deduced from reason or the fitness of things; it can only stand upon positive law.

It hath been said [by Mr. Baron Perrott,] that 'the Toleration Act only amounts to an exemption of Protestant Dissenters from the penalties of certain laws therein particularly mentioned, and to nothing more; that if it had been intended to bear, and to have any operation upon the Corporation Act, the Corporation Act ought to have been mentioned therein; and there ought to have been some enacting clause, exempting Dissenters from prosecution in consequence of this Act, and enabling them to plead their not having received the sacrament according to the rites of the church of England, in bar of such action.' But this is much too limited and narrow a conception of the Toleration Act; which amounts consequentially to a great deal more than this; and it hath consequentially an influence and operation upon the Corporation Act in particular. The Toleration Act renders that which was illegal before, now legal; the Dissenters' way of worship is permitted and allowed by this act; it is not only exempted from punishment, but rendered innocent and lawful; it is established: it is put under the protection, and is not merely under the connivance, of the law. In case those who are appointed by law to register dissenting places of worship, refuse on any pretence to do it, we must, upon application, send a mandamus to compel them.

Now there cannot be a plainer position, than that the law protects nothing, in that very respect in which it is in the eye of the law, at the same time, a crime. Dissenters, within the description of the Toleration Act, are restored to a legal consideration and capacity; and an hundred consequences will from thence follow, which are not mentioned in the Act. For instance, previous to the Toleration Act, it was unlawful to devise any legacy for the support of dissenting congregations, or for the benefit of dissenting ministers; for the law knew no such assemblies, and no such persons; and such a devise was absolutely void, being left to what the law called superstitious purposes. But will it be said in any court in England, that such a device is not a good and valid one now? And yet there is nothing said of this in the Toleration Act. By that act the Dissenters are freed, not only from the pains and penalties of the laws therein particularly specified, but from all ecclesiastical censures, and from all penalty and punishment whatsoever on account of their nonconformity; which is allowed and protected by this act, and is therefore in the eye of the law no longer a crime. Now if the defendant may say he is a Dissenter; if the law doth not stop his mouth; if he may declare, that he hath not taken the sacrament according to the rites of the church of England without being considered as criminal; if, I say, his mouth is not stopped by the law, he may then plead his not having taken the sacrament according to the rites of the church of England, in bar of this action. It is such a disability as doth not leave him liable to any action, or to any penalty or punishment whatsoever.

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It is, indeed, said [by Mr. Baron Perrott] to be 'a maxim in law, that a man shall not be allowed to disable himself.' But when this maxim is applied to the present case, it is laid down in too large a sense; I say, when it is extended to comprehend a legal disability, it is taken in too great a latitude. What! shall not a man be allowed to plead, that he is not fit and able? These words are inserted in the by-law, as the ground of making it; and in the plaintiff's declaration, as the ground of his action against the defendant: it is alleged, that the defendant was fit and able, and that he refused to serve, not having a reasonable excuse. It is certain, and it is hereby in effect admitted, that if he is not fit and able, and that if he hath a reasonable excuse, he may plead it in bar of this action. Surely he might plead, that he was not worth 15,000*l.* provided that was really the case, as a circumstance that would render him not fit and able. And if the law allows him to say, that he hath not taken the sacrament according to the rites of the Church of England, being within the description of the Toleration Act; he may plead that likewise, to shew that he is not fit and able: it is a reasonable, it is a lawful excuse.

My lords, the meaning of this maxim, 'That a man shall not disable himself,' is solely this, that a man shall not disable himself by his own wilful crime: and such a disability the law will not allow him to plead. If a man contracts to sell an estate to any person upon certain terms at such a time, and in the mean time he sells it to another; he shall not be allowed to say, Sir, I cannot fulfil my contract; it is out of my power; I have sold my estate to another. Such a plea would be no bar to an action, because the act of his selling it to another is the very breach of contract. So likewise a man, who hath promised marriage to one lady, and afterwards marries another, cannot plead in bar of a prosecution from the first lady, that he is already married; because his marrying the second lady is the very breach of promise to the first. A man shall not be allowed to plead, that he was drunk, in bar of a criminal prosecution, though, perhaps, he was at the time as incapable of the exercise of reason as if he had been insane; because his drunkenness was itself a crime: he shall not be allowed to excuse one crime by another. The Roman soldier, who cut off his thumbs, was not suffered to plead his disability for the service, to procure his dismission with impunity; because his incapacity was designedly brought upon him by his own wilful fault. And I am glad to observe so good an agreement among the Judges upon this point, who have stated it with great precision and clearness.

When it was said, therefore, that 'a man cannot plead his crime, in excuse for not doing what he is by law required to do;' it only amounts to this, that he cannot plead in excuse what, when pleaded, is no excuse: but there is not in this the shadow of an objection to his pleading what is an excuse, pleading a legal disqualification. If he is nominated to be a justice of the peace, he may say, I cannot be a justice of peace, for I have not a hundred pounds a year. In like manner, a Dissenter may plead, I have not qualified, and I cannot qualify, and am not obliged to qualify; and you have no right to fine me for not serving.

It has been said, that 'the king hath a right to the service of all his subjects.' And this assertion is very true, provided it be properly qualified. For surely, against the operation of this general right in particular cases, a man may plead a natural or civil disability. May not a man plead, that he was upon the high seas? May not idiocy or lunacy be pleaded? which are natural disabilities: or a judgment of a court of law? and much more, a judgment of parliament? which are civil disabilities.

It hath been said to be 'a maxim, that no man can plead his being a lunatic, to avoid a deed executed, or excuse an act done, at that time; because,' it is said, 'if he was a lunatic, he could not remember any action he did during the period of his insanity.' And this was doctrine formerly laid down by some judges; but I am glad to find, that of late it hath been generally exploded; for the reason assigned for it is, in my opinion, wholly insufficient to support it; because, though he could not remember what passed during his insanity, yet he might justly say, if he ever executed such a deed, or did such an action, it must have been during his confinement or lunacy; for he did not do it either before or since that time.

As to the case, in which a man's plea of insanity was actually set aside; it was nothing more than this: it was when they pleaded *ore tenus;* the man pleaded, that he was at the time out of his senses. It was replied, how do you know that you

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was out of your senses? No man that is so, knows himself to be so. And accordingly his plea was upon this quibble set aside; not because it was not a valid one, if he was out of his senses; but because they concluded, he was not out of his senses. If he had alledged, that he was at that time confined, being apprehended to be out of his senses; no advantage could have been taken of his manner of expressing himself; and his plea must have been allowed to be good.

As to Larwood's case; he was not allowed the benefit of the Toleration Act, because he did not plead it. If he had insisted on his right to the benefit of it in his plea, the judgment must have been different. His inserting it in his replication was not allowed, not because it was not an allegation that would have excused him, if it had been originally taken notice of in his plea, but because its being only mentioned afterwards was a departure from his plea.

In the case of the mayor of Guilford, the Toleration Act was pleaded, the plea was allowed good, the disability being esteemed a lawful one, and the judgment was right.

And here the defendant hath likewise insisted on his right to the benefit of the Toleration Act in his plea; he saith he is *bonâ fide* a Dissenter, within the description of the Toleration Act; that he hath taken the oaths, and subscribed the declaration required by that act, to shew that he is not a Popish recusant; that he hath never received the sacrament according to the rites of the Church of England, and that he cannot in conscience do it; and that for more than 50 years past he hath not been present at church at the celebration of the established worship; but hath constantly received the sacrament, and attended divine service, among the Protestant Dissenters. And these facts are not denied by the plaintiff; though they might easily have been traversed, and it was incumbent upon them to have done it, if they had not known they should certainly fail in it. There can be no doubt, therefore, that the defendant is a Dissenter, an honest conscientious Dissenter; and no conscientious Dissenter can take the sacrament at church; the defendant saith he cannot do it, and he is not obliged to do it. And as this is the case, as the law allows him to say this, as it hath not stopped his mouth, the plea which he makes is a lawful plea, his disability being through no crime or fault of his own; I say, he is disabled by act of parliament, without the concurrence or intervention of any fault or crime of his own; and therefore he may plead this disability in bar of the present action.

The case of, 'Atheists and Infidels' (objected by Mr. Baron Perrott,) is out of the present question; they come not within the description of the Toleration Act. And this is the sole point to be enquired into, in all cases of the like nature with that of the defendant, who here pleads the Toleration Act: is the man *bonâ fide* a dissenter within the description of that Act? If not, he cannot plead his disability in consequence of his not having taken the sacrament in the church of England: if he is, he may lawfully, and with effect, plead it, in bar of such an action. And the question, on which this distinction is grounded, must be tried by a jury.

It hath been said (by Mr. Baron Perrott) that 'this being a matter between God and man's own conscience, it cannot come under the cognizance of a jury.' But certainly it may. And though God alone is the absolute judge of a man's religious profession, and of his conscience, yet there are some marks even of sincerity; among which there is none more certain than consistency. Surely a man's sincerity may be judged of by overt acts: it is a just and excellent maxim, which will hold good in this as in all other cases, 'By their fruits ye shall know them.' Do they —I do not say go to meeting now and then—but do they frequent the meeting house? Do they join generally and statedly in divine worship with dissenting congregations? Whether they do or not, may be ascertained by their neighbours, and by those who frequent the same places of worship. In case a man hath occasionally conformed for the sake of places of trust and profit; in that case, I imagine, a jury would not hesitate in their verdict. If a man then alledges he is a dissenter, and claims the protection and the advantages of the Toleration Act, a jury may justly find, that he is not a dissenter within the description of the Toleration Act, so far as to render his disability a lawful one: if he takes the sacrament for his interest, the jury may fairly conclude, that his scruple of conscience is a false pretence when set up to avoid a burden.

The defendant in the present cause pleads, that he is a dissenter within the description of the Toleration Act; that he

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hath not taken the sacrament in the church of England within one year preceding the time of his supposed election, nor ever in his whole life; and that he cannot in conscience do it.

Conscience is not controlable by human laws, nor amenable to human tribunals. Persecution, or attempts to force conscience, will never produce conviction; and are only calculated to make hypocrites, or martyrs.

My lords, there never was a single instance from the Saxon times down to our own, in which a man was ever punished for erroneous opinions concerning rites or modes of worship, but upon some positive law. The common law of England, which is only common reason or usage, knows of no prosecution for mere opinions: for atheism, blasphemy, and reviling the Christian religion, there have been instances of persons prosecuted and punished upon the common law; but bare non-conformity is no sin by the common law: and all positive laws inflicting any pains or penalties for non-conformity to the established rites and modes, are repealed by the Act of Toleration; and dissenters are thereby exempted from all ecclesiastical censures.

What bloodshed and confusion have been occasioned from the reign of Henry the Fourth, when the first penal statutes were enacted, down to the Revolution in this kingdom, by laws made to force conscience! There is nothing certainly more unreasonable, more inconsistent with the rights of human nature, more contrary to the spirit and precepts of the Christian religion, more iniquitous and unjust, more impolitic, than persecution. It is against natural religion, revealed religion, and sound policy.

Sad experience, and a large mind, taught that great man, the president De Thou, this doctrine: let any man read the many admirable things which, though a Papist, he hath dared to advance upon the subject, in the dedication of his history to Harry the Fourth of France, which I never read without rapture; and he will be fully convinced, not only how cruel, but how impolitic, it is to persecute for religious opinions. I am sorry, that of late his countrymen have begun to open their eyes, see their error, and adopt his sentiments; I should not have broke my heart, (I hope I may say so without breach of Christian charity), if France had continued to cherish the Jesuits, and to persecute the Huguenots. There was no occasion to revoke the edict of Nants; the Jesuits needed only to have advised a plan similar to what is contended for in the present case: make a law to render them incapable of office; make another, to punish them for not serving. If they accept, punish them (for it is admitted on all hands, that the defendant in the cause before your lordships is prosecutable for taking the office upon him): if they accept, punish them; if they refuse, punish them; if they say Yes, punish them; if they say No, punish them.

My lords, this is a most exquisite dilemma, from which there is no escaping; it is a trap a man cannot get out of; it is as bad persecution as that of Procrustes: if they are too short, stretch them; if they are too long, lop them. Small would have been their consolation to have been gravely told, the edict of Nants is kept inviolable: you have the full benefit of that Act of Toleration; you may take the sacrament in your own way with impunity: you are not compelled to go to mass.

Was this case but told in the city of London as of a proceeding in France, how would they exclaim against the jesuitical distinction! and yet in truth it comes from themselves: the Jesuits never thought of it: when they meant to persecute, their Act of Toleration, the edict of Nants, was repealed.

This by-law, by which the dissenters are to be reduced to this wretched dilemma, is a by-law of the city, a local corporation, contrary to an act of parliament, which is the law of the land; a modern by-law, of very modern date, made long since the Corporation Act, long since the Toleration Act, in the face of them; for they knew these laws were in being. It was made in some year of the reign of the late king: I forget which; but it was made about the time of building the Mansion-house. Now if it could be supposed the city have a power of making such a by-law, it would entirely subvert the Toleration Act, the design of which was to exempt the dissenters from all penalties; for by such a by-law they have it in their power to make every dissenter pay a fine of 600*l.*, or any sum they please; for it amounts to that.

The professed design of making this by-law, was to get fit and able persons to serve the office: and the plaintiff sets forth in his declaration, that if the dissenters are excluded, they shall want fit and able persons to serve the office. But were I to

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deliver my own suspicion, it would be, that they did not so much wish for their services, as for their fines. Dissenters have been appointed to this office, one who was blind, another who was bedridden; not, I suppose, on account of their being fit and able to serve the office. No; they were disabled both by nature and by law.

We had a case lately in the courts below, of a person chosen mayor of a corporation, while he was beyond the seas, with his Majesty's troops in America; and they knew him to be so. Did they want him to serve the office? No; it was impossible. But they had a mind to continue the former mayor a year longer, and to have a pretence for setting aside him who was now chosen, on all future occasions, as having been elected before.

In the cause before your lordships, the defendant was by law incapable at the time of his pretended election: and it is my firm persuasion, that he was chosen because he was incapable. If he had been capable, he had not been chosen; for they did not want him to serve the office. They chose him, because, without a breach of the law and an usurpation on the crown, he could not serve the office. They chose him, that he might fall under the penalty of their by-law made to serve a particular purpose: in opposition to which, and to avoid the fine thereby imposed, he hath pleaded a legal disability grounded on two acts of parliament. As I am of opinion that his plea is good, I conclude with moving your lordships, That the Judgment be affirmed.

The Judgment was immediately affirmed *nem. con.*, and the entry made in the following words:

"It is ordered and adjudged by the Lords spiritual and temporal in parliament assembled, that the Judgment given by the commissioners delegates appointed to hear the errors in a judgment given in the Sheriffs' court, London, and affirmed by the Court of Hustings, reversing the judgment of the Sheriff's court and Court of Hustings, be, and the same is hereby affirmed; and that the record be remitted."

Captain Hervey's Speech in the House of Commons on presenting a Petition of the Lieutenants of the Navy.] A Petition of the Lieutenants of his Majesty's Navy being presented to the House, setting forth, among other things, That great numbers of the petitioners being now reduced to half-pay, the amount whereof is so far from being adequate to their situation as officers, that it will not supply them, even singly, with the common necessaries of life; and many of them being charged with families, are particularly labouring under the most mortifying distresses; and therefore beseeching the House to take the same into consideration, and grant them such relief as to the House should seem meet:

Captain *Harvey* stood up and said:

The paper which I shall ask leave to present to this House, is on a subject, that, in my opinion, should have been one of our earliest cares; and which, if I had not received repeated assurances of its coming before you in a very different manner, with all that weight, dignity, and authority, I must wish to see it accompanied with, I should have much earlier desired to have laid before you; but as I have lost all hopes of that sort, I cannot help imploring the serious attention of this House for a few moments, to what I think myself obliged, from every sense of feeling, for my king, my country, and the service I have the honour to belong to, to recommend to your compassion as well as to your justice.

I am sorry, Sir, this has not an abler conductor; I flatter myself it will not want abler supporters: but as the cause I am now engaged in neither requires art to represent its situation, nor eloquence to enforce its equity, I shall be the less anxious on that head. I know it carries with it the good wishes of every man that I ever conversed with upon the subject without doors. I had reason to hope it carried with it the good wishes of most, if not all, his Majesty's ministers; and I have the satisfaction of knowing it had the good wishes of that great and brave admiral, whom his Majesty has placed at the head of that service which is so much interested in the success of the Petition, I beg leave to open to you, and lay before you.

Sir, in the success of this motion, in my poor opinion, is comprehended the very existence of as useful a body of men as any this country has; in whom, in wartime, is lodged the honour and safety of these kingdoms: by whom the honour and safety of these kingdoms have been often preserved; and without whom, neither the beneficial services, nor the great glory this country has reaped, could have been obtained.

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After this description, I should scarce think it necessary to tell gentlemen, that I mean the Lieutenants of his Majesty's royal navy, without whose watchful care, constant labour, and intrepid conduct, the fleet could not have proved itself, as it has done, the true defence and support of this country; and yet this very body of men, on whom alone our fleet must depend, without whom we could have no fleet, at least no active fleet, are now starving (for the major part of them, those that are on half pay) for want of subsistence, hiding themselves, in the most remote corners of the country; some for fear of jails, which their necessities and their misfortunes, not their extravagances nor their faults, have reduced them to be afraid of; others to hide their wants from the world, being ashamed to appear where they cannot support that character, which their long services, great merits, and delicate sense of honour, had justly entitled them to. These, Sir, in a few years, must be all lost to this country; already but too many of them have been obliged to seek, with their families, a settlement in America. Many are reduced to go even as second mates, in merchant ships, to the most distant countries, where the merits of an English officer are too well known for them not to meet with every allurement and seducement for their remaining and consequently for their leaving this country. Others have fixed themselves in trades, to endeavour to maintain their numerous families; and these must also be all lost to the service, on any emergency or sudden call for them.

I have no occasion to remind gentlemen when this half-pay was first established, nor has the House time, at present, to let me enter into a comparison of that with the present time. The high price of every necessary of life will sufficiently make that felt by every one; but I must beg leave to appeal to gentlemen's attention and humanity: what an insignificant, insufficient, totally inadequate pittance, is two shillings a day for an officer who bears the King's commission to subsist upon? Is there a footman, is there a stable boy in any gentleman's family, who, from one consideration or other, has not more to maintain himself? Sir, it is too melancholy a scene to dwell upon. I could lay before you many distressing scenes, but I will not take up your time, as business of such great consequence is now coming on: but, Sir, I believe scenes of the distresses that are suffered by these brave, deserving officers, are too frequent in every county of England, not to be known to every gentleman present, and make it evident, how necessary it is to give them some immediate and effectual relief.

Sir, it was insinuated the other day, when I gave notice of this motion, that it would open a door to more representations, more claims and solicitations of this kind; that there would be more applications, and that this might be of bad consequence. In the name of God, Sir, are these reasons founded on equity, compassion, or principles of justice? Are such as these to invalidate what I have urged? Shall we be afraid to-day of doing what we know to be an act of justice, lest we should be asked to do another act of justice to-morrow? I never heard such reasons in private life; I hope I shall not hear them seriously urged in public life. But, Sir, I will go farther; I will be candid enough to say, that I do not mean to shut the door here: no, Sir, bring me any cases, similar to these I represent to you, and I will give all the assistance I can towards obtaining redress: but, Sir, I would endeavour to avoid all comparisons; they are ever odious: but in this case they are particularly to be avoided. But let gentlemen recollect that lieutenants in the navy are not, like mushrooms, to be bred in a night: they must be of a certain age before they go to sea; must be six years before they can pass for lieutenants, and many of them many more before they can obtain a commission; and go through very hard service too, before they can be qualified or entitled to a rank that can make them of use. Sir, I take this corps, on a medium, to be upwards of ten years before they are lieutenants; and on the same calculation, they are one and twenty years before they can get on the two shillings and sixpenny list, which consist of the 130 senior. Tell me where the service is that equals this? Sir, I will go no farther; I honour and respect the gentlemen of the land service: I know the value of them, and am happy that I have been often a witness to their great unanimity and cordiality; and therefore whenever their distresses are proved to be as great as those I now represent, I shall be equally zealous in their behalf. I think the necessities of the one may be pleaded, and the principles for redress supported, on principles very different from the other.

Sir, I shall say no more at present, but hope for your indulgence to make a reply to any answer I may hear to this.

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This speech produced an Address to his Majesty, That he would be graciously pleased to take the case of the lieutenants of his Majesty's navy, on half-pay, into consideration, and to make such farther provision for so useful and deserving a corps not exceeding one shilling a day, over and above their present half-pay, as his Majesty in his wisdom shall think fit; and that the House would make good the same.

Governor Pownall's Speech on the Bill for Suspending the Assembly of New York.] May 15. Mr. Fuller having reported from the Committee of the whole House, to whom it was referred, to consider of the several papers which had been presented to the House this session of parliament, relating to the North American colonies —several Resolutions, importing, 1. "That it appeared to the committee, that the House of Representatives of his Majesty's province of New York, have, in direct disobedience of the authority of the legislature of Great Britain, refused to make provision for supplying with necessaries his Majesty's troops, in such manner as is required by an act of parliament, made in the 5th year of his Majesty's reign, entitled, 'An Act to amend and render more effectual, in his Majesty's dominion in America, an Act passed in this present session of parliament, entitled An Act for punishing mutiny and desertion, and for the better payment of the army and their quarters.' 2. That an act of assembly hath been passed in the said province, for furnishing the barracks in the cities of New York and Albany, with firewood and candles, and other necessaries thereinmentioned, for his Majesty's forces, inconsistent with the provisions, and in opposition to the directions of the said act of parliament. 3. That it is the opinion of the Committee, that until provision shall have been made by the said assembly, for furnishing the King's troops, with all the necessaries required by the said act of parliament, the governor, council, and assembly, be respectively restrained and prohibited from passing or assenting to any act of Assembly, for any other purpose whatever;" In consequence of these Resolutions, a motion being made, that a Bill be brought in upon the last of the said Resolutions,

Governor *Pownall* rose and said:

Mr. Speaker; having borne so great a share in the service of North America, I hope it will not be thought improper, that I take some share in the present debate. When matters are brought under consideration, the facts and circumstances of which cannot be supposed to be fully known to this House, it becomes the duty of those whose service and station have rendered them duly cognizant of such circumstances and facts, to bear their testimony of the state of things, and to give their opinion of the state of the business also.—However clear and distinctly these matters may lie in my own mind, in the strongest form of conviction, yet, being unaccustomed to speak in public, I am afraid I shall be unable so to dispose and explain them, as to exhibit that same distinctness, and to convey the same conviction to others. This being the first time I have presumed to speak in this House, I feel that kind of awe in the presence of it, which every one must feel, who compares the little importance of his own sentiments, with the experience, the knowledge, and the wisdom of so great an assembly; so that, instead of finding myself master of my own sentiments and opinion, I feel as if I had risen only to experience my own insufficiency. But the indulgence of the House gives me encouragement, that they are willing to hear and receive what I can say on this subject. And indeed, it is not only from the situation in general in which I stood, and the relation which I have borne to the business of America, which seems to render it proper that I should not give a silent vote upon this occasion; but the particular manner in which I have been concerned in this particular business, does especially call upon me to give my opinion on the matter now under debate.

As the present measure, now under consideration, is the proposal of a bill for enforcing an act of parliament, directing and regulating the quartering his Majesty's troops in North America, this matter will be best explained, by a plain narrative of the rise of that act, and by comparing it with the circumstances and nature of the service which it was meant to provide for; and also by comparing it with that province law, which it took (though mistook) for its model on this occasion.

It may be remembered, that the commander in chief of the King's forces in North America applied to government to furnish him with sufficient powers, whereby he might quarter the King's troops; and ideas of the necessity of quartering in pri-

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vate houses were suggested by some. A Bill was formed on these ideas, and brought into this House.

A measure so exceptionable and so alarming, must necessarily meet with opposition in this House. There was an opposition made to it. This opposition gave occasion to the minister of that day to recollect himself.

I had heard accidentally of the state of this business, and thinking (as I did) the measure dangerous, and knowing that it was not necessary, I took the liberty to give this my opinion of it to that minister, and suggested a measure by which this business might have been done, and by which every thing so contrary and discordant to the constitution, might be avoided. I acquainted him, that there had passed, in the province of the Massachuset's bay, whilst I was governor there, 'An Act for providing quarters for the King's troops,' which as it was adapted to the nature of the country, and to the circumstances of the people, so it was universally submitted to, and (during the war) constantly carried into execution. That, as I had been the author of this measure and knew the effect of it, I was certain, that if that province law (adapted to the stated circumstances of the colonies in general) was made a clause in the act of parliament, allowing to the several provinces and colonies a proper latitude in the execution of it, it would answer every purpose required, could meet with no objection here, and would meet with no opposition in the colonies.

I was desired to explain this measure to a certain office; but I am afraid I was so unhappy in the effect of my explanation, as to be totally misapprehended; because I see, that the act of parliament, which the proposed Bill means to enforce, by its errors and defects, has mistaken and perverted every means of carrying the measure into execution; and has, from the tenor of it, been the natural occasion of all the confusion and misconduct which government now complains of.

The province law had in it every provision necessary for the carrying it into execution, and was accordingly constantly and invariably executed.

The act of parliament has neither any effectual clause to enforce its execution, nor makes any sufficient provision for the expence incurred by the person who shall carry it into execution. It neither considers the various circumstances of the service in that country, as they arise and present themselves variously in various parts thereof; nor, as they must be perpetually changing from time to time, in the same parts; but directs particular modes, and establishes regulations to particular and special points, which must necessarily be incompatible with the nature of the country, and circumstances of the people in many parts, and on many occasions. It endeavours to lay down general rules, which can never be applied to numberless particular cases that must arise; and, under this spirit of impracticability, it allows no latitude in the execution thereof. And therefore, if there were full and effectual powers to enforce it, such powers could not produce an execution of this law, nor could produce any thing but confusion, so far as respects the law, and an arbitrary quartering of the troops contrary to law; of which, if you have not already had instances, you most certainly will have, whenever this law is attempted to be carried into execution.

If you are determined to enforce this law, you ought, at least, to make it practicable. 1st, Where the act directs, that the troops shall be quartered in barracks, provided for that purpose, you should, at least, direct the manner of that quartering, so that the barracks might answer the purpose thereof; and not first put the people under a kind of compact and agreement to the expence of building barracks; and then, after such are built, leave it in the power of the commanding officer of your troops, to judge, or to say, that these barracks do not answer the purpose of quartering, and under that decision, to demand quarters either upon the inns or upon hired houses, even before any troops are quartered in such barracks as have been provided for them. 2d. Where the act would mean to direct the quartering of the troops in inns, alehouses, &c. you should, at least, collect the peculiar circumstances of those inns and alehouses in that country, and whether they can answer the demands which the act makes upon them.

You should consider, whether the officers which you direct to execute that business, can be required to do what is not practicable, and whether your act has provided any means adequate to the enforcing them to do what they know is incompatible with the nature and circumstances of the country to perform. 3d. Where the act directs that uninhabited houses, outhouses, &c. shall be hired for the accom-

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modation and reception of the residue of the troops, and provided with those special and particular articles, which the said act directs; you should at least consider, whether there be any such uninhabited houses, and unoccupied out-houses; and whether your act contains any thing that shall oblige the people to let them; or whether, when they are so hired, they will suit the purpose to which they are intended; or whether the circumstances of the people and country, where this service may be required to be performed, can supply those particular and special articles which you require of them.

When the act requires a service, which (supposing it capable of being executed) engages the person who executes it in an expence, if you mean to enforce that act, you ought to provide effectually for his reimbursement: and in this instance, the act which you now propose to inforce, is, in every point of consideration, absurd and impracticable; as it neither provides itself for that reimbursement, nor puts the matter in any way of execution, that either can or will provide for it; but, on the contrary, entangles this business in a matter of controversy, which would of itself, if nothing else did, obstruct and stop it.

The act of parliament for quartering his Majesty's troops in North America, directs, that the expence incurred by that measure shall be provided for by each respective colony, and raised in like manner, as the usual expences incurred by the province or colony are raised, that is, by an act of assembly. This was an original error, which did prevent, and must for ever prevent, this act from being carried into actual execution as an act of parliament.

If it be prudent and advisable, that parliament should charge any expence upon the colonies, by way of tax, originated in this House; how shall it direct that charge to be levied and payed? Shall parliament direct the assembly of any province or colony, to make provision and supply for it? Or shall parliament, directly and avowedly, imposing that sum upon the province or colony as a tax, settle the ways and means of levying it, and appoint executive officers to collect it? Or shall it direct the usual executive officer of the colony to levy and collect that tax so imposed? If the imposing by a direct tax be the proper political mode, the latter step is all regular, and but consequential of it—is conformable to law. The people having no share in the will, or in the authority, must submit to the power of the act, and have no duty left, but submission and implicit obedience.

If parliament, the supreme legislature, shall order and impose a tax on a body of people, and shall order the legislative part of that body to provide for the payment of it, and to see it payed, it must consider the members of that assembly merely as commissioners of taxes, appointed in such case to receive and register the act, to apportion and assess the tax. Yet surely this course is somewhat eccentric to the system of our happy constitution; it approaches, I am afraid, too near to the course taken by the arbitrary and despotic spirit of a neighbouring government, with the parliaments of its several provinces. This publishing the ordinance, this ordering a deliberative body to take it up as an act of its own will, and, as such, to register and carry it into execution, verges surely too near to that point which unites legislation and execution in the same body, to the utter destruction of political liberty. But I hope, and am willing to persuade myself, that I mistake this matter. It is impossible that, by any construction, this can be supposed to be meant; yet there is an use in that suspicion, which takes even a false alarm; as such alarm, when proved to be false, may lead to the conviction of truth.

If, on the other hand, we consider each of the assemblies of the provinces and colonies as what it is, as a legislative, deliberative body, as the will of that province or colony; it must have a right to deliberate, it must have a right to decide: if it has the free will to say Aye, it must have the same power of will to say No. You may properly order an executive power to execute; but how, and with what propriety can you order this deliberative body to exert its will only in one prescribed direction? If any supreme and sovereign will shall pre-ordain what this inferior power of deliberation shall will, it will make the same confusion in practice, which the divines and metaphysicians have made in theory, between predestination and free will absolute. If you mean to try this experiment of reducing these absurdities and inconsistencies to practice; if this Bill must pass, and you have not yet pre-determined on the title of it, it seems to me the Bill may justly be entitled, 'An Act to render more effectual predestination over free will.' For as

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your measure now stands, if the assemblies of the provinces and colonies will not in every mode, article, and particular provision, decide in their deliberative capacity, as an act of parliament directs and preordains, you consider the colonies as denying the sovereignty of Great Britain, than which nothing can be more unjust, unless it were possible to find any thing more absurd.

Are you determined from hence to direct and regulate the quartering of the King's troops in North America? Do it in a way that brings it home to the executive power there, to carry your directions and regulations into execution; explain and amend your act: make it practicable; make it effective; and then you may fairly decide whether they deny your sovereignty or not. You will find they do not. If you think your way of making an adequate and certain provision for the charge of this service, is by the parliament's imposing a tax upon the people for that purpose; and that you have power, and it is advisable to exert that power, to effectuate such supply, by such tax, you need not hesitate to avow it openly and directly; for the people of the colonies, from one end of the continent to the other, do invariably consider the clause in the act of parliament, directing how that charge shall be supplied, as an internal tax imposed upon them. It is from this idea, that every act of obedience, as well as of disobedience to your act of parliament, must be construed and explained. Those whom you are willing to understand as having obeyed your act, have contrived to do it in a mode which neither recognizes the act of parliament, nor submits to the taxation, as such. And although you represent the assembly of the province of New York alone, as having revolted against this power—believe me, there is not a province, a colony, or a plantation, that will submit to a tax thus imposed, more than New York will. All have shewn their readiness to execute this service of quartering as an act of their own; all have, in their zeal to provide for it, by a grant of their own, provided a supply to answer the expence; but not one single assembly has, or ever will, act under the powers and provisions of this act, as acknowledging, and, in consequence thereof apportioning, assessing and levying, the supply, as a tax imposed by parliament. They have either acted without taking notice at all of this act of parliament, or have contrived some way or other to vary in some particulars, sufficient to make the execution and the tax an act of their own. Try the conduct of every province and colony through by this rule, and you will find nothing particular in the case of New York. Don't fancy that you can divide the people upon this point, and that you need only divide to govern; you will by this conduct only unite them the more inseparably; you will make the cause of New York a common cause, and will call up every other province and colony to stand forth in their justification, while New York, learning from the complexion of your measure how to avoid or evade the purport of your enforcing Bill, will suspend the force of it, instead of it suspending the assembly of that province, against whom it is brought forward.

But we are told, that there is something so peculiar in the spirit with which the house of representatives in Boston have opposed the authority of this act of parliament, extending to the oppugning of all authority of parliament whatsoever—that that particular case will demand the particular consideration of this House. We are told, that they have charged the governor and council with unwarrantable and unconstitutional proceedings, for acting in consequence of an act of parliament.

This is so total a misapprehension and misrepresentation of the case, as it doth actually stand, that a bare narrative of the circumstances and proceedings on the matter will convince the ministry, that they need not put themselves to the unnecessary and disagreeable pain of any farther consideration of it, nor give this House any trouble about the affair. Some troops unexpectedly, and by accident, put into the harbour of Boston—some expences arose in consequence of the necessity of providing for a temporary reception of them—the general assembly not having yet, from any occasion, been called upon to make provision for the quartering of troops by an act of the province, and not being sitting at this particular time, the governor, with the advice of council, incurred the expence. When the assembly met, the house of representatives considering that the act of parliament requires an act of the general court, in order to supply or reimburse any expence incurred by providing quarters, and so forth, and that no such act did as yet exist; and that therefore the governor was

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not authorised, either by any act of parliament, nor as yet by an act of the province, to incur and supply such expence, did, with a jealousy and attention not unworthy even our imitation, object to the involving the treasury in any such charge, except what they authorized by their just power of appropriation. The governor, with great prudence, immediately entered an acknowledgment of the constitutional mode of proceeding, imputed the charge incurred to the necessity of the unforeseen occurrence, and apologized for his proceeding, as consonant to the usual practice in the like cases. Although some of that ill temper, which always mixes in with business when people are not well together, did mix in with this, yet here it ended; and from this plain narrative, I dare say, this House will never be troubled with any thing more about it. But to return:

This clause in the Quartering Act, directing that the supply for reimbursing the expence of quartering the troops shall be raised by the respective assemblies of the provinces or colonies, which is by all the people of America considered as (and is indeed) a tax imposed by parliament, has brought, in fact, into discussion, that question of the right of taxation, which the cautious and (what I think) imprudent wisdom of many have endeavoured to keep wrapped up and suspended in theory. What schemes of policy wished to hold in question acts and deeds will bring into decision. You have, on one hand, by your declaratory law, asserted your right and power of taxation over the colonies, and so far as this act goes, you have exerted that power. On the other hand, it is a fact which the House ought to be apprized of, in all its extent, that the people of America, universally, unitedly, and unalterably, are resolved not to submit to any internal tax imposed upon them by any legislature, in which they have not a share by representatives of their own election.

This claim must not be understood, as though it were only the pretences of party leaders and demagogues; as though it were only the visions of speculative enthusiasts; as though it were the mere ebullition of a faction which must subside: as though it were only temporal or partial—it is the cool, deliberate, principled maxim, of every man of business in the country.

They say that while we consider the nation, the realm, the government of Great Britain, collectively taken, as the sovereign, and the colonies as the subject, without participation in the deliberation, or the will, bound implicitly to obey the orders of this sovereign, and implicitly to enact, register, and carry into execution, those grants, which we by our acts have made of their property—they say, that this sovereign, however free within itself, is an absolute sovereign, an arbitrary lord, and that their obedience and subjection, without the interposition of their own free will, is, as to the subject so stated, absolute slavery. We have by act of parliament declared our right, and thus their apprehensions feel the effect of it.

They say, that supplies are of good will, and not of duty; are the free and voluntary act of the giver, having a right to give, not obligations and services to be complied with, which the subject cannot in right refuse—they therefore maintain, claim, and insist upon, that whatever is given out of the lands or property of the people of the colonies, should be given and granted by their own.

They say, that the true ground of justice, whereon the House of Commons grants supplies, and may lay taxes on the lands of themselves and their constituents, is, that they give what is their own, or that of others, for whom they are specially empowered to consent; that they lay no taxes which do not affect themselves and their constituents; that therefore, they are not only the proper givers, but also the best and safest judges, as to the extent and the mode of the gift. But that where any legislature shall give and grant out of lands and property, in which they have no share or concern; where they have no tax imposed upon others to supply that gift in ease of themselves and their constituents, the case labours with every effect, if not with every circumstance of injustice.

Thus this question is brought in issue, and must be decided: however much the policy of ministry may wish and labour to wave it, cases which constantly arise must bring it into discussion, and necessity will force it into decision.

Is it the intent of government to exert the power that it hath declared to be its right—is it determined to put this matter in contest—to put in contest the interest, the peace, and perhaps, the being of this country—with the certain effect of ruin to our commercial interest—and to our colonies, as commercial accretions of the state? —Certainly no.

Does ministry mean to propose the mea-

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sure of imposing taxes on the colonies, and to force into execution the collection of them? The whole system of the state, government, and interwoven interest of the colonies, is gone too far for that to be practicable.

Does it mean by any mode of policy to unite this system, which is, in fact, interwoven and incorporated into the very being of the British empire? I am afraid not. Matters are not yet gone far enough to point out the practicability and necessity of such political union.

What then remains, but that we must return again, and re-establish the system of our politics on that basis whereon they stood, before some late innovations in our system shook that basis? What remains, but that we act, as to external taxes, with that commercial spirit and prudence, which the wisdom of parliament hath always exercised towards the colonies, since their first establishment: and that as to farther supplies, when they become necessary, the colonies are properly applied to by requisitions in the old-accustomed, known mode, which hath always succeeded, and been found effectual.

As this is my opinion on this question in general, so on the particular matter, of this debate, on the proposed Bill, I will close what I wish to offer in recommending it to the House, either so to amend and explain its act, as that both the mode of quartering, and the act of making the supply for the expence of it, may originate with the people of the colonies, and be an act of their own assemblies; in which case, this enforcing Bill will become unnecessary; or let it be considered as a service which the crown requires of them, and for which, without the interposition of parliament, it makes the proper requisitions.

This will restore peace, this will effect the business. The contrary measure of this enforcing Bill will be the beginning of a series of mischiefs, and therefore I shall be against the bringing it in.

This speech was followed by one from sir Thomas Sewell, who was answered by the right hon. Charles Townshend; after whom spoke, in answer to what governor Pownall had said, Mr. Secretary Conway, Sir Gilbert Elliot, the right hon. Hans Stanley. The right hon. George Grenville arose on the same account, also the right hon. Welbore Ellis, who were answered by Mr. Alderman Beckford. The Bill however passed.

*Proceedings in the Commons on the East India Company's Dividends' Bill.**]

A new kind of Money Bill was brought in this session, not founded upon any resolution of the Committees of Supply or Ways and Means. Early in the session,

* "The disunion of the ministry was no less perceptible in the affairs of the East India company, which in pursuance of the intimation to the directors, early occupied the attention of parliament. Their charters, treaties with the country powers, letters, and correspondence with their servants in India; the state of their revenues in Bengal, Bahar, Orissa, and all other places, were ordered to be laid before the House, together with an account of all expences incurred by government on the company's behalf. Violent debates ensued, and a petition being presented from the company, the order for printing the private correspondence was discharged. This extensive enquiry introduced the discussion of many relative and collateral topics, and among others a doubt was suggested concerning the right of the company to the territories acquired in India. The agitation of this question produced many animated speeches; the interference of the House of Commons was strongly deprecated; it was urged that the difficulty might be solved in the courts below, that House not being by the constitution, the interpreter of laws, or the decider of legal rights.

"The chancellor of the exchequer declared his disinclination to try the question in the House, and recommended an amicable agreement with the company. A large party of the proprietors, though strenuous in maintaining their claim to those possessions during the remaining term of their charter, were rather disposed to prevent litigations by a reasonable composition, and prepared proposals for an adjustment of the dispute. When this scheme was agreed to by the directors and presented to the ministry, their want of cordiality occasioned new embarrassments: after the proposals had been delivered to several members of administration in succession, they all declined taking any part in the negociation out of the House; and a petition was presented to parliament, containing two sets of proposals for a temporary agreement during three years.

"On the basis of one of these proposals, a Bill was framed, binding the company to pay to government the sum of 400,000*l.* a-year, by half yearly payments, and to indemnify the nation, should any loss be sustained in consequence of the imposition of certain inland duties, and the allowance of some drawbacks granted at their request. The term, instead of three, was limited to two years, to commence from the first of February 1767.

"While this affair was in agitation, the company proposed, at a general court, an increase of dividend; justifying the measure by the state of their finances, as they would be

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that is, on the 25th of November, a part of the Act 9 and 10 William 3, entitled, 'An Act for raising a sum, not exceeding 2,000,000*l*., upon a fund for payment of annuities, after the rate of 8*l*. per cent. per annum, and for settling the trade to the East Indies;' and also part of the Act of 7 George 1, entitled, 'An Act to enable the South-Sea Company to engraft part of their capital stock and fund, into the stock and fund of the Bank of England, and another part thereof into the stock and fund of the East-India Company,' &c., were, upon motion, read to the House, and thereupon it was resolved, that a committee be appointed to enquire into the state and condition of the East India Company; that the said Committee be a Committee of the whole House.

This enquiry gave rise to this new Money Bill. After the House had several times resolved itself into this Committee of enquiry, and had called for papers, and accounts relating to this affair, at last on the 20th of May, there was presented to the House, and read, a Petition of the united company of merchants of England, trading to the East Indies, setting forth:

"That the petitioners, being duly sensible of the great obligation they lie under to government, and that their interests are, and must ever be, inseparable from those of the state, are most earnestly desirous that the public, and the East India Company should mutually reap the benefits arising from the acquisitions and revenues, lately obtained in India; and the petitioners conceiving, that in the present state of things, a temporary agreement, for the space of three years, may be conducive to the advantage of both, do submit to the consideration of parliament the following Proposition, in order to the carrying such agreement into execution.

1. "They beg leave humbly to suggest, that it will be not only expedient but necessary to the extending their commerce, and enabling them to invest those revenues in India in the produce of the country, that this House will take under their consideration the inland duties upon teas, in order to prevent the pernicious practice of smuggling, and encourage the consumption of that commodity, by such an alteration in the duties as to the House shall seem fitting, and by granting a draw-back on such teas as may be exported to Ireland, or to any of his Majesty's colonies, and also by such alterations, as may conduce to the same salutary purposes, in regard to the duties on callicoes, muslins, and raw silk.

2. "That in order to render the advantages expectant from the revenues before mentioned certain and permanent, the House will provide effectual methods, as well for recruiting the forces necessary in India, as for regulating the Company's civil and military servants there, for preventing the exportation of military stores thither, except for the Company's service, and for preventing illicit trade.

3. "That from the said revenues, there shall be deducted, the expences attending the collection thereof, together with the civil, military, and marine establishments, and also the charges incurred for fortifications, buildings, and repairs, the same to be adjudged by annual accounts transmitted from, and properly authenticated by, the several presidencies, in which the same shall be incurred.

4. "That an account of the Company, including the residue of the said revenues, and the produce of their exports, shall be annually made up, and that of the sums

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enabled, before the month of February, to discharge all their debts, and pay the increased dividend. The ministry wisely considering this as a dangerous delusion, calculated to renew the fatal effects of the South Sea scheme, by letter to the directors, recommended the court not to augment the dividend till their proposals were fully discussed in parliament. The proprietors, however, slighted the admonition, and declared a dividend for the ensuing half year, at the rate of twelve and a half per cent.

"In consequence of this proceeding, two Bills were brought into parliament; one for regulating the qualifications of voters in trading companies; the other for restraining the making of dividends by the East India Company. The latter Bill rescinded the recent resolution, and restrained them from making any dividend exceeding ten per cent.

"This measure occasioned a spirited opposition: the company, alarmed at the encroachment on their supposed privileges, petitioned the House, and also proposed, if the Bill were laid aside, to bind themselves for the time of their agreement with government, not to extend their dividends beyond the limits indicated in the restraining Bill. The petition and proposal were equally disregarded, and the Bill was sent up to the Lords, where it was no less strenuously opposed. The whole strength of the anti-ministerial parties was combined, and on the third reading the minority divided 44 against 59. A long, learned, and argumentative protest in 16 articles was entered on the Jour[illegible] signed by 19 peers." Adolphus.

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arising from the general sales, the sum of 400,000*l.* shall be deducted, in lieu of profits, which the petitioners have hitherto enjoyed.

5. "That the net surplus shall be equally divided between the public and the company.

6. "That the Company's share of the said surplus shall be duly and solely appropriated to the payment of their present debts, until they shall be reduced to the sum due to the Company from the public.

7. "That this agreement shall commence from the 1st of February, 1767, upon all goods to be imported from India, and shall continue for three years, provided the Dewannee of Bengal, Bahar, and Orixa, shall remain in the Company's hands.

8. "But if it should be the opinion of the House, that it will be the more beneficial for the public to enjoy a specific sum, instead of the proportion of the revenues and trade above mentioned, then the petitioners proposed to pay, in lieu thereof, 400,000*l.* per annum for three years, by half yearly payments; the first payment to commence March 25, 1768; and they are also willing to indemnify the public in respect of such draw-back on teas exported, as shall be granted by parliament, taking the same in a medium of the duties on the quantity of teas exported for five years past; and that such indemnification shall also extend to the inland duty of one shilling in the pound on the quantities of all black and singlo teas, consumed in Great Britain, upon a like medium of five years, in case it shall also appear a fit measure to parliament to take off the said duty; and provided the duties on the increased consumption shall not be sufficient to replace or supply the aforesaid duty of one shilling in the pound: and the petitioners hope, that what is hereby proposed, either in the mode of participation, or by a certain yearly payment, will appear reasonable and equitable to the House, more especially considering that the public revenue, during this interval, must continually increase in the same proportion with the commerce of the Company, and the petitioners entreat the House to recollect the imminent dangers to which, in many critical conjunctures, their properties have been often exposed, the very large sums they have expended since the commencement of the wars in India, in which they were never the aggressors, the low dividends, which notwithstanding their few losses at sea, they have received during a course of years, whilst the public remained in the uninterrupted participation of an annual revenue, arising from the Company's trade, of the full value of one third of their capital: circumstances, which, the proprietors flatter themselves, will procure them the favour and protection of this honourable House, and entitle them to that candour and justice, which have ever been the characteristics of the British senate."

This Petition was referred to a committee, who came to the following Resolutions, viz. "That it is the opinion of this committee, 1. That it would be for the mutual benefit of the public, and the East India Company, that a temporary agreement be made, in regard to the territorial acquisitions and revenues lately obtained in India. 2. That it is expedient, for the purposes of the said agreement, that it should continue for a term, not exceeding three years, to commence from the 1st of February, 1767. 3. That the said acquisitions and revenues do remain in the possession of the Company, during the continuance of such agreement: and that the Company do pay to the public, annually, during the said term, the sum of 400,000*l.*, by half yearly payments, each payment to be made within six months after the same shall have become due. 4. That it will be necessary and proper, for the better carrying on and extending the trade of the said Company, that provision be made for granting a drawback on teas exported to Ireland, and the British dominions in America; and for taking off the inland duty of one shilling per pound weight on black and singlo teas, consumed in Great Britain; upon such indemnification to be made by the Company to the public, in respect to such duty and drawback, as is mentioned in the Petition of the said Company."

The three first of these Resolutions were agreed to by the House *nem. con.* and a Bill ordered to be brought in upon them. And the fourth Resolution was referred to the Committee of Ways and Means.

*Proceedings in the Lords on the East India Company's Dividends' Bill.**] June

* HARDWICKE PAPERS.—List of the Speakers in the House of Lords, June 17, 1767, on a Motion for a Conference with the House of Commons on the Bill relating to the East India Company's Dividend.

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17. The House being moved, "That a Conference be desired with the House of Commons, to the end that the ground on which the Bill for regulating certain proceedings of the general courts of the united company of merchants of England trading to the East Indies, proceeded in that House, so far as the same rescinds an Act done on the 6th of May last by a General Court of the East India Company, and so far as the same takes from the said Company the power of declaring any dividend beyond the rate of 10*l.* per cent. per ann., during the time therein mentioned, may appear the more plainly to this House:" The same was objected to. After long debate; the question was put thereupon. It was resolved in the negative.

The House then went into a Committee upon the Bill, intituled, "An Act for regulating certain Proceedings of the General Courts of the United Company of Merchants of England trading to the East Indies."

June 22. The House being moved, "That the proper officer do lay before this House, the present general state of the East India Company's affairs, which, by the 29th bye-law, is to be drawn out by the court of directors, in the month of June, annually:"*

For.	*Against.*
Duke of Richmond.	Lord Marchmont.
Lord Mansfield.	Duke of Grafton.
Lord Lyttelton.	Lord Sandys.
Duke of Newcastle.	Lord Chancellor.
Lord Weymouth.	Lord Steward.
Lord Temple.	Lord Wycombe.
Duke of Bedford.	Lord Harwich.
Lord Suffolk.	

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* The following LETTER is copied from the HARDWICKE PAPERS.

Monday, June 22, 1767.

My lord; when I got admittance into the House of Lords (which was not till past 3 o'clock), lord Temple was moving to have copies of all the propositions which had been made and settled between the ministry and the East India Company.

Mr. Rous was called in; and, being examined in relation to the said motion, acquainted the House, "That the annual accompt for June 1767 is not yet made up, there having been so much time taken up in making copies of papers and accounts

Which was objected to, by the duke of Grafton, who said, He never would consent to a motion, which implied something that never had existed; for that no propositions had ever been made and settled between the ministry and the East India company; and what had already past between them, had been only by way of conversation, upon the most likely means for an agreement between government and the company; and a debate ensuing thereon, lord Temple altered his motion, to have copies of all the propositions which had been made as the basis of an agreement between the ministry and the East India company. And the question being put, was (I think) rejected.

Lord Temple then moved, that copies of all the charters which had been granted by his Majesty, or any of his royal predecessors, to the East India Company, might be laid before the House. Which occasioned fresh debate; but was in the end (if I mistake not) assented to.

The House then went into a committee upon the Bill; and after several extracts of letters to the East India company, from their servants in Bengal, received by the ship Cruttenden on the 19th instant, (which contained an account of some further acquisition and advantages to the company), had been read, the chairman called upon the counsel to proceed. But lord Temple again got up, and desired, that Mr. Rous might be again called in; for as he had in the conclusion of his last examination declared, that circumstances might arise, which might make him alter the opinion he then held, with regard to fixing the dividend at 10 per cent., his lordship thought that the papers which they had then heard read, afforded new matter, and brought a new case before them, and might occasion Mr. Rous to be of a different opinion from that he had declared at his last examination.

This occasioned a very long and warm debate; and the question being put, it came to a division, and the numbers were, Content 38, Not Content 57. The chairman then again called upon the counsel to proceed. But another motion was made, that, as it was then so late (being past 8 o'clock) the House might be adjourned to an early hour to-morrow; but it was over-ruled. The duke of Richmond then moved to have several persons called in for examination, who were all proposed separately to the House, and all rejected. The counsel were then ordered to proceed, and accordingly began; soon after which, a motion was made to adjourn, and the House was accordingly adjourned till to-morrow.—The following were the principal Speakers for and against Mr. Rous's being called in:

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for both Houses and the counsel against the Bill; thinks that the said accounts may be made out in two or three days; but, for greater certainty, refers to the accomptant general; that it could not properly be made out till the Cruttenden arrived; and that no conclusions can be drawn from the accompts before the House."

The same was agreed to; and ordered accordingly.

The House being moved, "That the court of directors do forthwith prepare, and that the proper officer do lay before this House, an estimate of all the monies that may probably be received, both in Great Britain and India, and the payment that ought to be issued, from this time to the usual day of paying the Christmas dividend."

Mr. Rous was again called in; and being examined in relation to the said estimate acquainted the House, "That he cannot tell what time this accompt may take copying; that it is not necessary to be laid before the proprietors; that the directors thought it necessary to make up a cash-accompt of what they may receive and pay at Midsummer, that it might be laid before the proprietors, in order to stem the tide against raising the dividend, and to shew they could not with propriety do it; that he thinks a calculation may be made of what the Company may receive here; but thinks it will be very difficult to make any calculation of what may be received in India; that the receipts and payments in India to Christmas next is of no use to determine the dividend; that the Company have no right to declare a dividend upon their expectancies in India; that he thinks it illegal to declare an increase of dividend till the Company have paid their debts, but gives this as matter of opinion, not having consulted counsel about it; that there are always outstanding debts when a dividend is declared; that the dividend has formerly been reduced to 6 per cent.; that they might possibly draw upon the East Indies for 40,000*l.* or that they might get it advanced here, but it would be very imprudent; that the debts in India might be paid out of the balance in favour of the Company in India, if there is any, which, if there should, it will add to the general accompt, in favour of the Company, to increase their dividend; that they are not to depend entirely upon possession, in making their dividends, but upon their ability to pay their debts; that he don't know whether the accompt between Sujah Dowler and the Company was laid before the proprietors, previous to the dividend; that he did not lay it before them when called upon by Mr. William Burke, when the agreement with government was in agitation, that the dividend might take place at Christmas; that he thinks the drawing specie from Bengal must be very prejudicial to that country; and that he cannot tell the amount of the debt in course of payment for the year 1767."

June 25. The order of the day being read, for the House to be again put into a Committee upon the Bill, intituled, "An Act for regulating certain proceedings of the General Courts of the United Company of Merchants of England trading to the East Indies:" The House was adjourned during pleasure, and put into a Committee upon the said Bill.* After some time, the House was resumed.

For.	*Against.*
Lord Temple.	Duke of Grafton.
Duke of Richmond.	Lord Chancellor.
Lord Mansfield.	Lord Shelburne.
Lord Weymouth.	Lord Townshend.
Lord Gower.	
Lord Suffolk.	
Lord Lyttelton.	
Duke of Newcastle.	

* Hardwicke Papers.---House of Lords, June 25, 1767. Committee on the Dividends' Bill.

Against the rescinding.	*For the Clause.*
Lord Powlet.	Duke of Grafton.
Lord Temple.	Lord Shelburne.
Duke of Newcastle.	Lord Chancellor.
Duke of Richmond.	Lord Egmont.
Lord Mansfield.	

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Remarkable passages.

Lord *Temple* observed, that 400,000*l.* to be kept in reserve, either for an increase of dividend, or other occasions of the Company, had been mentioned by the directors in their proposals, and therefore it seemed extraordinary, that they should oppose the increase of dividend: that the profits of the trade were 600,000*l.*, and that the proprietors kept greatly within compass by only dividing 400,000*l.*

Lord *Shelburne* declared his opinion as to the right of the public to the territorial acquisitions; and that parliament had powers competent to decide upon it.

The Duke of *Richmond* blamed the directors

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And the lord Botetourt reported from the Committee, "That they had gone through the Bill, and directed him to report the same to the House, without any amendment."

June 26. The Bill was read a third time and passed. The following is the substance of the arguments made use of for and against the said Bill:

The advocates for the Bill seemed to ground their motives on the following principles. To prevent the payment of a higher dividend than the circumstances of the Company could afford, without endangering their credit. To regulate the dividend in such a manner, as to put an end to the fluctuation of that stock, which, if allowed to go on, was not only likely to introduce a pernicious spirit of gaming, but would also tend to keep down the other stocks, the rise of which is a great means of reducing the interest of the national debt. That no encroachment might be made by any dividend of the Company, upon the revenue of its late territorial acquisitions, so that the claim of the public may suffer no loss, till that affair was finally decided.

On the other side, the opposers to the Bill shewed, that by the state of the Company's affairs, which were laid before the parliament, it was evident that they were in circumstances able to make a much greater increase of dividend, without in any degree affecting their credit; as it appeared that they had effects not only amply sufficient to discharge every just demand, but that, after even repaying their capital, a prodigious surplus would still remain; and that a doubt of their being able to divide 80,000*l.* among themselves, when they were allowed to be in circumstances to pay the government 400,000*l.* a year, could scarcely deserve a serious consideration.

It was said, that if a Bill for restraining the future dividend of the Company were proper, upon the ideas of fixing and preventing a fluctuation in the price of its stock, that end required only that the dividend should be fixed, without any regard to the quantum of it, and may be as well attained by a dividend of 12½ as of 10 per cent. That this is so far from being any part of the real purpose of the present Bill, that the short period to which the restriction is confined, cannot but increase instead of preventing that fluctuation; and encourage instead of checking the infamous practices of the Alley. For that the passions of men would be warmly agitated during the summer, in speculating on the probability of this restriction being suffered to expire on the opening of the next session, or of its being farther continued. That the proposal made by the Company, of submitting to a restriction of dividend of 12½ per cent. during the temporary agreement, would have obviated all those mischiefs, and secured every good end which might have been proposed, but cannot be attained by the present Bill; with this additional advantage, that as it would have been done with their consent, it would have been liable to no objection of injustice or violence.

That the arguments which had been made use of, on a supposition that the right to the territorial acquisitions in the East Indies was not lodged in the Company, but in the public, if admitted as one of the grounds of the Bill, was a precedent of the most dangerous nature; for the Company being in possession, and no claim against them being so much as made, much less established, it would be highly dangerous to the property of the subject, and extremely unbecoming the justice and dignity of parliament, by extrajudicial opinions, to call into question the legality of such a possession.

Many other objections were made as well to the form of this Bill, as to the principles on which it was founded; and

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for not making a sale of teas in March (as usual), that they might not appear to be in cash; but he contended, that dividends were never made from a cash account.

The *Lord Chancellor*, besides running down and depreciating the company's circumstances, declared himself against the agreement, as a bargain made in the dark: that his opinion went not with it, and that he would not consider it as an agreement, till it was a law.—Illegality of the company's bond debt.

Lord *Mansfield* treated this clause as an exertion of absolute power—(of which there was no precedent)— to set aside a legal act of private men legally empowered to dispose of their own property: that in so doing the proprietors had neither violated the general principles of justice, nor the bye-laws of the company:—were amply in circumstances to afford 12½ per cent.—Stock-jobbing promoted by the Bill—People would pretend to have connections with the mistresses of great men, and make sudden starts and revolutions in the Alley.

Lord *Egmont* was strongly for the right of the public, and parliamentary exertion.

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the probable consequences that might attend it, were placed in a strong point of view. Among the rest it was observed, that a legislative interposition controuling the dividend of a trading company, which had been legally voted and declared by those to whom the power of doing it was intrusted, and to whom there was no ground to impute an abuse of that power, who had lent their money to the public upon the express stipulation that they might exercise their discretion with regard to the dividends, provided that their effects, undivided, were sufficient to answer their debts, was altogether without example. That, as it tended to lessen the idea of that security and independence of the power of the state, which had induced all Europe to deposit their money in the funds of Great Britain, the precedent may be attended with the most fatal consequences to public credit.

All these reasons, and many others which were given, proved entirely ineffectual; the Bill was carried through a great opposition in both Houses; in the upper House 59 lords voted for it, and 44 against it; and a strong and nervous protest was entered against it, signed by 19 lords.

Protest against passing the East India Company's Dividends Bill.] The following is a copy of the said Protest:

"Dissentient.

1. "Because the Bill, containing in appearance nothing but matter of future regulation, is so contrived as to operate retrospectively, and rescind a dividend actually declared by a general court of the East India Company, on the sixth of May last, of 6 ¼ per cent. for the half year ending at Christmas next. This was, in the argument, avowed to be the principal object of the Bill; though the Bill itself does not even mention that act, or suggest any reason for rescinding it: and we conceive, that if the measure had been substantially right, yet this manner of doing it, is unbecoming the dignity of parliament, which should in all cases go openly and directly to its object.

2. "Because this measure appears to us to be as exceptionable in the substance as in the form, being an *ex post facto* law, rescinding a legal act of the Company in the exercise of its dominion over its own property, notwithstanding their application and earnest intreaties to the contrary, without necessity or occasion, from any consideration of private justice or public utility.

3. "Because, considering the East India Company as a national object, and the members of it as bound to attend to the interest of the public, as well as their own, the dividend they had voted, and which is by this Bill to be rescinded, appears to be liable to no objection; for the only legal restriction on the Company's power to divide, is, that the sum total of all the debts which they shall owe, do not exceed the value of the principal or capital stock or stocks, which shall be and remain undivided; and it appears by the clearest evidence, that the Company's effects are amply sufficient, not only to discharge every just demand, but that after even repaying their capital, there will remain a very great surplus.

4. "Because it appears also to us, that the dividend declared on the 6th of May is expedient; for the dividend being in fact the only medium whereby to fix and compute the price of the stock, as between buyer and seller, justice to both requires such a dividend as will fix that price as near as may be to the real value of the dividend; 12 ½ is in that respect preferable to a dividend of 10 per cent. to which this Bill has arbitrarily restrained it.

5. "Because it appears to us to have been a dividend regularly declared, the objections which have been made to it upon this head appearing to us void of all foundation. We admit, that the court did proceed without an account actually before them, but the want of this account, so far as relates to the property of the dividend, appears to have been sufficiently supplied. The directors in their negociations with the government, and their declarations at former courts, had themselves proposed such a dividend, and acknowledged the ability of the company to make it. The proprietors, by these and other means, had full reason to be satisfied of that ability. And the account now produced, examined and proved, does fully warrant their proceedings, and verify the ideas they then entertained and acted on.

6. "Because the dividend appears to have been voted by a very numerous court, and so nearly unanimous, that no ballot was taken, because none was demanded: and no ballot was demanded, because there was not a competent number of proprietors who disapproved the measure; and though, for that reason,

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the sense of the members present only was taken, by holding up of hands, it now appears to be beyond a doubt, the confirmed deliberate sense of the Company; having been reconsidered at no less than three subsequent courts, convened for the purpose of concerting the proper measures to support it; at the two last of which the votes of the company at large were taken by a regular ballot, and the dividend previously voted, was approved and ratified by a large majority. To the validity of the Act of the 6th of May no objection could be supported, though attempted. It was clearly a valid act; and if not valid, the Bill to rescind it would be unnecessary, for the act of itself would be void.

7. "Because every argument used to shew the impropriety of dividing 12 ½ applies with equal force to a dividend of 10 per cent. which the Bill allows, and indeed to any dividend at all; and would, if admitted to be a proper ground for rescinding this dividend, be equally so for rescinding every dividend the Company has ever made, or probably will ever make. For it is hardly possible, that during the existence of the Company, its debts can be actually paid off, or their cash in hand suffice to discharge those debts, and pay a dividend, and at the same time the trade be carried on to that extent, as will yield to the Company and the public the most ample returns. The whole argument in favour of the Bill being reduced to these two propositions, that the Company ought to discharge its debts before this dividend can be allowed to take place; and that a dividend ought to be made upon a cash account, is also contradicted by the uniform practice of the Company from its commencement.

8. "Because this Bill cannot be meant for the interests of the Company's creditors, and of the proprietors; for it is observable, that the latter, as far as they may be supposed to understand, and may be permitted to judge of their own interests, entertain, and have strenuously expressed a very different sense of that matter. And as to the creditors, it is remarkable, that none of them appear to have called for their money, nor have any of them, by any petition to this House, or otherwise, made any complaint, or signified any desire of such an interposition in their favour. On the contrary, it appeared on evidence, from the cross examination of the principal witness for the Bill, that so far from doubting of the sufficiency of the security, the greatest evil the Company's bond creditors apprehend is, the being paid off; and that their bonds, which some time since bore an high premium, though they carry only 3 per cent. bear at present a premium considerably lower, merely from that apprehension.

9. "Because a legislative interposition controuling the dividend of a trading Company, legally voted and declared by those to whom the power of doing it is entrusted, and to whom there is no ground to impute an abuse of that power in the exercise of it, and who lent their money to the public upon the express stipulation, that they might exercise their discretion with regard to the dividends, provided their effects, undivided, were sufficient to answer their debts; is altogether without example. And as it tends to lessen the idea of that security and independence of the power of the state, which have induced all Europe to deposit their money in the funds of Great Britain, the precedent may be attended with the most fatal consequences to public credit.

10. "Because, if a Bill restraining the future dividend of the Company were proper, as has been argued upon, any ideas of fixing and preventing a fluctuation in the price of its stock, that end requires only, that the dividend should be fixed, without any regard to the quantum of it, and may be as well attained by a dividend of 12½ as of 10 per cent., and consequently affords no argument for the retrospective part of this Bill, or for fixing the future dividend below the value of the stocks. But this is in truth so far from being the real object of any part of the present Bill, that the short period to which the restriction is confined, cannot but increase, instead of preventing that fluctuation, and encourage, instead of checking the infamous practices of the Alley. The passions of men will be warmly agitated during the summer, speculating on the probability of this restriction being suffered to expire at the opening of the next session of parliament, or being continued farther. The ignorant and unwary are sure to be the dupes of those who have the good luck to be in the secret, and are wicked enough to employ it to their own advantage. But the proposal made by the Company, of submitting to a restriction of dividend at the rate of 12½ per cent., and extending that restriction during the temporary agreement, would have obviated all those mischiefs, and secured every good end

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which may have been proposed, but cannot be attained by this Bill; and as the Bill, in its regulations of that property, would in that case have been supported by their consent, it would have been liable to no objections of injustice or violence.

11. "Because, if at the opening of the next session of parliament, the restriction is permitted to expire, the whole effect of the Bill, except the mischiefs it may produce, will be the keeping back for four or five months, from the pockets of those to whom it belongs, a sum of 40,000*l.* the difference between the divident the Company wishes, and that which it is allowed to make by the Bill; this sum is ridiculously disproportioned to any real purpose of paying off and reducing the Company's debts; and if, on the other hand, the restriction is then to be continued, and the parliament henceforward to regulate the dividends of the Company, and the whole of their affairs for that purpose is to be from time to time laid open to public examination, it is not difficult to foresee the ruinous consequences to the Company; and as the precedent will go to the subjecting every other Company to the same sort of controul, the speedy dissolution of them all will be perhaps the happiest event the public can wish, that they may not become so many engines of power and influence, the consequences of which it is easy to conceive and unnecessary to describe.

12. "Because, the argument in favour of this limitation, drawn from a supposition, that the Company had exceeded their legal power of borrowing on their bonds, appears to us to be neither well founded nor conclusive; it appears on the natural construction of the Engrafting Act, that they have kept within the legal powers given them by that act, and which have been recognized, as we conceive, by other acts of parliament; and we cannot comprehend the justice, the policy, or the decorum, of quarrelling at this particular time, with the exercise of a power publicly exerted, and which has come frequently within the cognizance, without incurring the censure, of parliament; and as there has been hitherto no judgment of law, or even any suit, complaint, or petition whatsoever, upon this matter, we are fearful, lest this objection might not seem to arise from the illegality of the borrowing, but from the necessity of such a supposition, in order to find a pretence, however insufficient, for this limitation.

13. "Because, the inability of the Company, to make the dividends rescinded by this Bill, has been argued on a supposition, that the right to the territorial acquisitions of the Company, in the East Indies, is not in that Company, but in the public; which method of arguing, if admitted as one of the grounds of the Bill, we conceive to be inconclusive as to the subject matter, and highly dangerous as to the precedent; for the Company being in possession, and no claim against them being so much as made, much less established, we hold it highly dangerous to the property of the subject, and extremely unbecoming the justice and dignity of this House, by extrajudicial opinions, to call into question the liberty of such a possession, and to act without hearing, as if the House had decided against it.

14. "Because, the forms of proceeding upon this Bill have been contrary to precedent, inasmuch as it appears by our Journals, that whenever a Bill, judicial in its nature, as affecting legal rights and private property, has come up from the Commons, stating no facts as a ground for that Bill, or stating facts, the evidence of which does not appear in the preamble, the invariable practice of this House has been to desire a conference with the other, in order to be informed either of the facts, or the evidence to support such facts (if alledged) on which the Bill was originally framed; and the Commons have on like occasions, done the same by this House; instances of this mutual application from one House to the other, appear in the following cases, viz. Mr. Duncomb's case, March, 1697. Directors of the South Sea Company, Aislabie and Craggs, July, 1721. Sir Thomas Cooke's case, 1695. Cases of Kelly, Plunkett, and bishop of Rochester, March, 1722. Bambridge's case, April, 1729. Robinson and Thomson's case, March, 1731. Sale of lord Derwentwater's estates, &c. 1732. Case of sir Robert Sutton, and others, March, 1732. Case of Al. Wilson, and the city of Edinburgh, May, 1737.

15. "Because, in the proceedings also on this Bill, no counsel was appointed in support of the Bill, to state the grounds upon which it proceeded, and to examine and methodize the witnesses, for want of which the Lords themselves were obliged to question them, and appear more like parties than judges.

16. "Because, also in the proceedings on this Bill, when lords, who declared

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themselves patrons and friends to the Bill, had examined two witnesses, and said, they were satisfied with their examination, other lords were not permitted to call in any other witnesses, before the counsel for the East India Company, against this Bill, were ordered to proceed. It was even denied to lords, to bring again to the bar the two gentlemen who had been examined (Mr. Rous and Mr. Saunders, the chairman, and deputy chairman of the Company) although by the arrival of the ship Cruttenden from Bengal, since their examination, which brought a new and very particular account of the flourishing state of the Company's affairs in India, it was very possible those gentlemen might have changed their opinion; their former evidence having been merely matter of opinion resulting from such information as they were at that time possessed of: witnesses were dismissed without being heard, and the Bill was passed, without waiting for the return of an account, declared by Mr. Rous to be such, that without it no judgment of the present state of the affairs of the Company could be formed, and which had been ordered by the House; and as the officers informed the House, might have been prepared in a few days. In this manner this Bill has passed, which we are apprehensive may be found in its consequences very injurious to private property, and alarming to public credit. —*(Signed,)*—Winchelsea and Nottingham, Scarborough, Trevor, Fortescue, Richmond, Dudley and Ward, King, Weymouth, Gower, Fred. Exon, Temple, Portland, Sondes, Dorset, Rockingham, Albemarle, Eglintoune, Abergavenny, Ponsonby."

*Proceedings of the Lords relating to an Act of Indemnity passed by the Governor of Massachusets Bay.**] May 22. The order of the day being read, for taking into consideration the several Papers laid before the House on Monday last, relating to the proceedings of the committee of council, upon the Act passed by the governor, council, and assembly, of Massachusets Bay, pursuant to an Address to his Majesty; and for the Judges to attend:

Ordered, That the House be put into a committee, to consider of the said papers; and that the papers which were laid before this House this day be referred to the said committee.

Whereupon, the House was adjourned during pleasure, and put into a committee accordingly. After some time, the House was resumed.

Ordered, That the further consideration of the said papers be adjourned till Tuesday next; and that the Lords be summoned; and that the Judges do then attend.

May 26. The order of the day being read, for taking into further consideration the several Papers laid before the House, by his Majesty's command, relating to the Act passed by the governor, council, and assembly, of Massachusets Bay: It was moved, "That the House be put into a committee."* The same was agreed to.

* Questions to be proposed to the Judges.

1st, "Whether that part of an act passed by the governor, council and assembly of Massachuset's Bay, which purports to be a free and general pardon, indemnity and oblivion to the offenders in the late times, is warranted by the charter of king William and queen Mary, or null and void?

2nd, "Whether separate provisions relative to distinct matters unconnected with, and independent of each other, made and passed by the said governor, council and assembly in one act, are several laws, so as that one provision may be void if they have exceeded their authority, and another remain a good and valid law?"

* Hardwicke Papers. — May 26, 1767.
Committee of the whole House.

Lord Gower moved the 2nd Question to the Judges.
Duke of Grafton.
Lord Gower.
Lord Hillsborough.
Lord Mansfield.
Lord Camden, Chancellor.
Lord Lyttelton.
Lord Denbigh—called to order by several lords for his rude treatment of lord Mansfield; narrowly escaped being called to the bar.

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Lord Gower then moved, that the committee should resolve, That the Act of Indemnity had no operation or effect from the time of passing it, the governor, council and assembly of Massachusets having no authority (without the previous consent of the crown) to frame any such act.

Duke of Grafton moved the previous Question.
Lord Sandwich.
Lord Talbot.
Lord Shelburne.
Duke of Bedford.
Lord Marchmont.
Duke of Newcastle.

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And the House was adjourned during pleasure, and put into a committee thereupon. After some time, the House was resumed. Moved, "To adjourn." Agreed to.

*Resolution of the Lords relating to the State of Quebec.**] June 2. The order of the day being read, for taking into consideration the Papers laid before the House on Wednesday last, relating to the state of Quebec:

Moved, "That the House be put into a Committee."

Accordingly, the House was adjourned during pleasure, and put into a committee thereupon. After some time, the House was resumed.

And the lord Botetourt reported from the committee, That they had come to the following Resolution:

"That it appears to this committee, that the province of Quebec, for a considerable time past, has wanted, and does now stand in need of, further regulations and provisions, relating to its civil government and religious establishment."

And the same, being read by the clerk, was agreed to by the House.

Debate in the Commons on reducing the Land Tax.] When the Land Tax was proposed in the Committee of Ways and Means by Mr. Charles Townshend, it was for 4*s.* in the pound. He contended, that in order to take off some of that weight which pressed the public funds, and to give room for the most brilliant operation of finance, which this country ever saw, it was necessary that 4*s.* should be paid for one year longer, to give us dignity abroad, stability at home, and to enable us to enter with advantage into any future war. The country gentlemen were surprised, that he should imagine even his eloquence capable of persuading them, that a debt of about five millions could be cancelled, public credit restored, our fleets and armies equipped and victualled, by the addition of 500,000*l.* for one year, which is the produce of one shilling in the pound Land Tax. But in taking this ground, he did not so much consult the propriety of his present argument as his general reputation, and was wisely unwilling to stand forth the avowed patron of a perpetual burthen. The new and less considerable supporters of administration had less hesitation and prudence; they endeavoured to support the opinion, by avowing principles which concluded for a perpetual Land Tax at 4*s.* at least. It is true by this, that they abandoned and betrayed the first speaker, and alienated the minds of many indifferent men by the roundness of their declarations; and actually lost the end they proposed. They contended that the Land Tax, instead of being considered as an annual supply for the service of the current year, ought to be a perpetual fund for the payment of the national debt, and that till this was reduced to about 70 millions, the Land Tax could not, with propriety, be lessened.

All these sentiments were answered in the course of the Debate: to those whose arguments concluded for the perpetuity of a four-shilling Land Tax, it was replied, that this tax was first proposed for other purposes, and submitted to in other confidence; a confidence which, for near fourscore years, had never been abused; that to continue the imposition at its present height during the time of peace, in order

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Lord Egmont.
Lord Temple.
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Then the House being resumed, lord Botetourt moved a question of Approbation of the privy council's manner of rejecting this Bill; which being objected to by lord Weymouth and other lords, the duke of Grafton desired it might be withdrawn, which was accordingly agreed to by the mover.

* From the HARDWICKE PAPERS.—June 2, 1767. Duke of Richmond moves the Resolutions and Address upon the Affairs of Canada.

Speakers.

Lord Northington.	Lord Hardwicke.
Duke of Bedford.	Lord Shelburne.
Duke of Grafton.	Lord Ravensworth.
Duke of Richmond.	Lord Chancellor.
Duke of Grafton.	Lord Weymouth.

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House resumed.
First question reported and agreed to.
Duke of Richmond moved the Address.
Duke of Grafton moved to adjourn.
Lord Temple for the Address.
Lord Denbigh.
Lord Gower.
Agreed to adjourn, and that the Address might be proposed after the holydays.
It was not expected, that the majority would have been so large; but the court had exerted themselves to draw their strength together.

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to discharge the public debt, was the most direct breach of this faith, and, in fact, a new and unprecedented tax imposed for new purposes; and that this new imposition of a tax so unequally laid, doubled the injustice, by oppressing a set of men, whose patient acquiescence in the time of necessity, merited the earliest relief from the state. In answer to those who rested the success of the measures of the year, and the reduction of the public debt, upon continuing the larger sum this year, it was replied, that it was an imposition on the public understanding, to attempt to persuade men that the safety of this kingdom depended on an addition of 500,000*l.* to a supply already much too large for the peace establishment of this country, and more than adequate to the real necessities of the state, though nothing can be adequate to the profusion of its ministers: that this additional burden was the more unnecessary, as the unfunded debt which had so long lain heavy upon the stocks was now unprovided for; but, that admitting the necessity of it, it would be more just and equally feasible to borrow the sum of 500,000*l.*

And Mr. Grenville, who spoke with much weight on the subject, undertook to point out more than one method by which the interest of that sum, amounting only at three and a half per cent. to 17,500*l.* might be raised, without laying any sensible burden upon the subject. He therefore moved in the committee an amendment, that instead of four shillings, there should be substituted three shillings. And Mr. Dowdeswell seconded the motion. When the House divided, the numbers were, For 4*s.* 188, For 3*s.* 206.*

* "It was then, to the great surprise and disappointment of the ministers, that a resolution passed the House, supported by a considerable majority, which reduced the land tax for the present year to three shillings in the pound. This was said to have been the first Money Bill in which any minister had been disappointed since the Revolution; and it was now looked upon as a fatal symptom of weakness. In this the public was, however, mistaken, though appearances seemed strongly to countenance the opinion." Annual Register.

SUPPLIES *granted for the Year* 1767.] The following are the Resolutions of the Committee of Supply during this Session:

	£.	s.	d.
NOVEMBER 27, 1766.			
That 16,000 men be employed for the sea-service for 1767, including 4,287 marines.			
That a sum not exceeding 4*l.* per man per month be allowed for maintaining them, including ordnance for sea-service	832,000	0	0
JANUARY 26, 1767.			
That a number of land forces, including 2,461 invalids, amounting to 16,754 effective men, commission and non-commission officers included, be employed for 1767.			
For defraying the charge of the said number of land forces for 1767	593,986	15	7
For the pay of the general and general staff officers in Great Britain for 1767	12,293	18	6½
For maintaining his Majesty's forces and garrisons in the Plantations and Africa, including those in garrison at Minorca and Gibraltar, and for provisions for the forces in North America, Nova Scotia, Newfoundland, Gibraltar, the ceded islands, and Africa, for 1767	405,607	2	11½
For defraying the charge of the difference of pay between the British and Irish establishment, of six regiments of foot, serving in the Isle of Man, at Gibraltar, Minorca, and the ceded islands, for 1767	7,201	14	7
For paying the pensions to the widows of such reduced officers of the land forces and marines, as died upon the establishment of half pay in Great Britain, and who were married to them before the 25th Dec. 1716, for 1767	1,536	0	0
Upon account of the reduced officers of the land forces and marines, for 1767	135,299	8	4
For defraying the charge for allowances to the several officers and private gentlemen of the two troops of horse guards, and regiment of horse reduced, and to the superannuated gentlemen of the four troops of horse guards, for 1767	2,103	11	8
For defraying the charge of full pay for 165 days, for 1767, to officers reduced, with the 10th company of several battalions, reduced from ten to nine companies, and who remained on half pay at the 24th Dec. 1765 ..	5,633	3	4
For the charge of the office of ordnance for land service, for 1767	169,600	0	2

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For defraying the expence of services performed by the office of ordnance, for land service, and not provided for by parliament, in 1766	51,190	6	6
	1,384,362	1	8

JANUARY 29.

For the ordinary of the navy, including half pay to sea and marine officers, for 1767	409,177	4	3

FEBRUARY 10.

Towards the buildings, rebuildings, and repairs of ships of war, in his Majesty's yards, and other extra works, over and above what are proposed to be done upon the heads of wear and tear and ordinary, for 1767	298,144	0	0
For purchasing a quantity of hemp, to replenish his Majesty's magazines	30,000	0	0
	328,144	0	0

FEBRUARY 12.

For paying off and discharging the exchequer bills made out by virtue of the act of last session, c. 15, and charged upon the first aids to be granted in this session	1,800,000	0	0
To make good to his Majesty, the like sum issued by his orders, in pursuance of the addresses of this House	12,951	2	2
	1,812,951	2	2

FEBRUARY 19.

Towards defraying the extraordinary expences of his Majesty's land forces, and other services incurred to the 3rd Feb. 1767, and not provided for by parliament	315,917	16	5
Upon account, towards defraying the charge of out pensioners of Chelsea hospital, for 1767	106,083	2	6
	422,000	18	11

MARCH 5.

That provision be made for the pay and clothing of the militia, and for their subsistence during the time they shall be absent from home on account of the annual exercise, for 1767.

MARCH 19.

Upon account, for maintaining and supporting the civil establishment of Nova Scotia for 1767	4,866	3	5
Upon account of sundry expences for the service of Nova Scotia, for 1766, not provided for by parliament	691	8	0
Upon account, for defraying the charges of the civil establishment of Georgia, and other incidental expences attending the same, from the 24th June 1766, to 24th June 1767	3,986	0	0
Upon account, for defraying the charges of the civil establishment of East Florida, and other incidental expences attending the same from June 24, 1766, to June 24, 1767	4,750	0	0
Upon account, for defraying the charges of the civil establishment of West Florida, and other incidental expences attending the same, from June 24, 1766, to June 24, 1767	4,800	0	0
Upon account, for defraying the expence attending general surveys of his Majesty's dominions in North America for 1767	1,601	14	0
Upon account, for defraying the charges of the civil establishment of Senegambia, for 1767	5,550	0	0
	26,245	5	5

MARCH 24.

For the marriage portion of the Queen of Denmark	40,000	0	0

MARCH 31.

Towards carrying on an additional building for a more commodious passage to the House of Commons, from St. Margaret's-lane, and Old Palace-yard	2,000	0	0
To be employed in maintaining and supporting the British forts and settlements on the coast of Africa, under the direction of the committee of merchants trading to Africa	13,000	0	0
	15,000	0	0

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APRIL 9.

To replace to the Sinking Fund the like sum issued thereout, to discharge for the year ended the 29th Sept. 1766, the annuities after the rate of 4*l.* per cent. attending such part of the joint stock, established by an act of the third of his present Majesty, in respect of certain navy, victualling, and transport bills, and ordnance debentures, as remained unredeemed on the said 29th of September	104,506	11	10
To replace to ditto, the like sum issued thereout, for paying the charges of management of the annuities attending the said joint stock, for one year, ended the 29th Sept. 1766	1,592	1	9½
To replace to ditto, the like sum issued thereout, to discharge from the 29th Sept. 1766, to the 25th Dec. following, the annuities attending such part of the said joint stock, as was redeemed in pursuance of an act made in the last session of parliament	8,708	17	7½
To replace to ditto, the like sum paid out of the same, to make good the deficiency on the 5th July, 1766, of the several rates and duties upon offices and pensions, and upon houses, and upon windows or lights, which were made a fund, by an act of the 31st of his late Majesty, for paying annuities in respect of 5,000,000*l.* borrowed towards the supply granted for the service of 1758	49,660	9	2½
To replace to ditto, the like sum paid out of the same, to make good the deficiency, on the 10th Oct. 1766, of the several additional duties on wines imported, and certain duties on cyder and perry, which were made a fund for paying annuities in respect of 3,500,000*l.* borrowed towards the supply granted for the service of 1763	12,758	13	7
To make compensation to Dr. Peter Swinton, for the damage done to his estate in the city of Chester at the time of the late Rebellion, by order of the officer commanding the garrison of the said city	700	0	0
	177,926	14	0

APRIL 13.

That the remainder of the capital stock of annuities, after the rate of 4*l.* per cent. granted in respect of certain navy, victualling, and transport bills, and ordnance debentures, delivered in, and cancelled, pursuant to an act made in the third year of his Majesty's reign, be redeemed, and paid off, on the 25th Dec. next, after discharging the interest then payable in respect of the same.			
To enable his Majesty to redeem and pay off the said remainder	1,741,776	10	11
That one-fourth part of the capital stock of annuities, after the rate of 4*l.* per cent. established by the act of 3 Geo. 3, c. 12, be redeemed, and paid off, on the 5th Jan. next, after discharging the interest then payable in respect of the same.			
To enable his Majesty to redeem, and pay off the said one-fourth part	875,000	0	0
Towards paying off and discharging the debt of the navy	300,000	0	0
To make good the deficiency of the grants for the service of 1766	1,291,144	2	8
	3,045,920	13	7

MAY 5.

Upon account, for enabling the Foundling Hospital to maintain and educate such children as were received into the same, on or before the 25th March 1760, from the 31st Dec. 1766 exclusive, to the 31st Dec. 1767 inclusive, and that the said sum be issued and paid as on former occasions	28,000	0	0
Upon account, for enabling the said hospital to put out apprentice the said children, so as the said hospital do not give with any one child more than 7*l.*	1,500	0	0
	29,500	0	0

MAY 19.

That the half pay of the lieutenants of his Majesty's navy is unequal to the rank their commissions bear, and the time they have been in his Majesty's service.

JUNE 15.

Upon account, towards satisfying the expences incurred by the committee of the company of merchants trading to Africa, on account of the establishment of Senegal, and its dependencies, after the 29th Oct. 1765	3,500	0	0

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For further enabling his Majesty to defray the contingent expences of the forces serving in North America	2,000	0	0
	5,500	0	0
Total of the Supplies granted this Session	8,527,728	0	6½

WAYS AND MEANS *for the Year* 1767.] The following are the Resolutions of the Committee of Ways and Means during this Session:

Nov. 27, 1766. That the usual temporary malt tax be continued from the 23d of June, 1767, to the 24th of June, 1768, 700,000*l.*

March 2, 1767. That 3*s.* in the pound, and no more, be raised within the space of one year, from the 25th of March, 1767, upon lands, tenements, hereditaments, pensions, offices and personal estates, in that part of Great Britain called England, Wales, and the town of Berwick upon Tweed: and that a proportionable cess, according to the 9th article of the Treaty of Union, be laid upon that part of Great Britain called Scotland. 1,528,568*l.* 11*s.* 11¼*d.*

March 9. 1. That the charge of the pay and clothing of the militia, in that part of Great Britain called England, for one year, beginning the 25th March, 1767, be defrayed out of the monies arising by the land-tax granted for the service of 1767.

2. That 1,800,000*l.* be raised by loans or exchequer bills, if not discharged with interest thereupon, on or before the 5th of April, 1768, to be exchanged and received in payment, in such manner as exchequer bills have usually been exchanged and received in payment.

April 2. 1. That an additional duty of 6*s.* be laid upon every dozen of bast, or straw, chip, cane and horse-hair hats and bonnets, which from and after the 2d of April, 1767, shall be entered inward at any port, or place, in this kingdom.

2. That an additional duty of 6*s.* be laid upon every pound weight avoirdupoize of platting, or other manufacture of bast, or straw, chip, cane, or horse-hair, to be used in, or proper for, making of hats or bonnets, which from and after the said 2nd of April, shall be entered inwards at any port or place in this kingdom.

April 16. 1. That 1,500,000*l.* be raised in manner following, that is to say, the sum of 900,000*l.* by annuities, after the rate of 3*l.* per cent. to commence from the 5th of Jan. last; and the sum of 600,000*l.* by a lottery to consist of 60,000 tickets, the whole of such sum to be divided into prizes, which are to be attended with the like 3*l.* per cent. annuities, to commence from the 5th of Jan., 1768; and that all the said annuities be transferrable at the bank of England, paid half yearly on the 5th July, and 5th of Jan., in every year, out of the sinking fund, and added to, and made part of, the joint stock of 3*l.* per cent. annuities, which were consolidated at the bank of England by certain acts made in the 25th and 28th years of the reign of his late Majesty, and several subsequent acts, and subject to redemption by parliament, that every contributor towards the said sum of 900,000*l.* shall, in respect of every 60*l.* agreed by him to be contributed for raising such sum, be entitled to receive four tickets in the said lottery, upon payment of 10*l.* for each ticket; and that every contributor shall, on or before the 29th of April next, make a deposit with the cashiers of the bank of England, of 20*l.* per cent. in part of the monies so to be contributed towards the said sum of 900,000*l.* and also a deposit of 5*l.* per cent. in part of the monies so to be contributed in respect of the said lottery, as a security for making the respective future payments to the said cashiers, on or before the times herein-after limited; that is to say, on the 900,000*l.* 10*l.* per cent. on or before the 27th March next; 10*l.* per cent. on or before the 26th June next; 15*l.* per cent. on or before the 27th August next; 15*l.* per cent, on or before the 25th Sept. next; 15*l.* per cent. on or before the 30th October next; 15*l.* per cent. on or before the 17th Nov. next. On the lottery for 600,000*l.* 25*l.* per cent. on or before the 16th of June next; 30*l.* per cent. on or before the 28th July next; 40*l.* per cent. on or before the 11th Sept. next. And that all the monies so received by the said cashiers, be paid into the receipt of his Majesty's exchequer, to be applied from time to time, to such services as shall then have been voted by this House in this session of parliament; and that every contributor, who shall pay in the whole of his contribution towards the said sum of 900,000*l.* at any time on or before the

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27th Oct. next, or towards the said lottery on or before the 24th July next, shall be allowed an interest, by way of discount, after the rate of 3*l.* per cent. per annum, on the sums so completing his contribution respectively, to be computed from the day of completing the same to the 17th Nov. next, in respect of the sum paid on account of the said 900,000*l.* and to the 11th Sept. next, in respect of the sum paid on account of the said lottery.

2. That an additional duty of 3*d.* per ell be laid upon all linen cloth or sheeting, above one yard English in width, which shall be imported into this kingdom, except from Holland and Flanders.

3. That an additional duty of 3*d.* per ell be laid upon all canvas drilling which shall be imported into this kingdom.

4. That the said duties be carried to the sinking fund, towards making good to the same the payments to be made thereout of the annuities attending the said sum of 1,500,000*l.*

5. That the additional duties upon bast, or straw, chip, cane and horse-hair hats and bonnets, and upon platting, or other manufacture of bast, or straw, chip, cane, or horse-hair, to be used in, or proper for, making of hats, or bonnets, imported into any port, or place, in this kingdom, granted to his Majesty in this session, be also carried to the said fund, towards making good the said payments.

6. That towards making good the said supply, there be applied the sum of 469,147*l.* 14*s.* 3¼*d.* remaining in the receipt of the exchequer, on the 5th April, 1767, for the disposition of parliament, of the monies which had then arisen of the surplusses, excesses, or overplus monies, and other revenues, composing the fund commonly called the sinking fund.

7. That towards raising the said supply, there be applied the sum of 2,010,121*l.* 10*s.* 3½*d.* out of such monies as shall or may arise of the surplusses, excesses, or overplus monies, and other revenues, composing the said fund, commonly called the sinking fund.

8. That towards making good the said supply, there be applied the sum of 35,202*l.* 9*s.* 2*d.* also remaining in the receipt of the exchequer, for the disposition of parliament.

9. That 261,571*l.* 13*s.* 3¼*d.* out of the savings arising upon grants for the pay of several regiments upon respited pay, by off-reckonings, and by stoppages made for provisions delivered to the forces in North America, the West Indies, and at Minorca, to the 24th Dec., 1764, and received of William earl of Chatham, formerly paymaster-general of his Majesty's forces, for the balance remaining over and above the monies found necessary to be applied for defraying the expences of the forces in former years; and also out of the sum of one million, granted in the 2nd year of his Majesty's reign, on account, to enable him to defray extraordinary expences of the war, for the service of 1762, and to assist the kingdom of Portugal, and for other purposes, be applied towards making good the supply granted towards defraying the extraordinary expences of his Majesty's land forces, and other services, incurred to the 3d of February, 1767, and not provided for by parliament.

10. That out of such monies remaining in the hands of E. Sainthill, esq. as were issued to him for the relief and maintenance of the widows of officers of the land forces and marines, who died in the service, the sum of 7,844*l.* 17*s.* 9*d.* be paid into the hands of the paymaster general of his Majesty's forces, and be also applied towards making good the said supply granted towards defraying the extraordinary expences of his Majesty's land forces, and other services incurred to the 3rd Feb. 1767, and not provided for by parliament.

11. That 110,000*l.* out of such monies as shall be paid into the receipt of the exchequer, after the 5th April, 1767, and on or before the 5th April, 1768, of the produce of all or any of the duties and revenues, which by any act or acts of parliament, have been directed to be reserved for the disposition of parliament, towards defraying the necessary expences of defending, protecting, and securing the British colonies and plantations in America, be applied towards making good such part of the supply as hath been granted to his Majesty, for maintaining his Majesty's forces and garrisons in the plantations, and for provisions for the forces in North America, Nova Scotia, Newfoundland, and the ceded islands, for the year 1767.

12. That such of the monies as shall be paid into the receipt of the exchequer after the 5th April, 1767, and on or before the 5th April, 1768, of the produce of the duties charged by an act of parliament made in the 5th year of his present Majesty's reign, upon the importation and exportation of gum senega and gum arabic, be applied towards making good the supply granted to his Majesty.

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13. That 150,000*l.* remaining in the receipt of the exchequer, which was granted to his Majesty in the last session of parliament, upon account, for defraying the charge of the pay and clothing of the militia for one year, beginning the 25th of March, 1766, be applied towards raising the said supply.

14. That 181,000*l.* of the monies agreed to be paid by a convention between his Majesty and the French king, concluded and signed at London, the 27th February, 1765, for the maintenance of the late French prisoners of war, be applied towards making good the said supply.

15. That 84,604*l.* 3*s.* 3*d.* remaining in the receipt of the exchequer on the 5th April, 1767, of the two sevenths excise, granted by an act of 5 and 6 W. and M. after satisfying the several charges and incumbrances thereupon, for the half year then ended, be carried to, and made part of, the aggregate fund; and that the said fund be made a security for the discharge of such annuities, and other demands, payable out of the said sum, as the growing produce of the said two sevenths excise, shall not be sufficient to answer.

May 5. 1. That an additional duty of 3*d.* per ell be laid upon all linen cloth or sheeting above one yard English in width, which shall be imported into this kingdom from Holland and Flanders, except cloth of the manufacture of those countries.

2. That an additional duty of 3*d.* per ell be laid upon all drilling, other than canvas drilling, which shall be imported into this kingdom.

3. That the said duties be carried to the sinking fund, towards making good to the same, the payments to be made thereout, of the annuities to be established in respect of the sum of 1,500,000*l.* to be raised in pursuance of a resolution of this House, on the 16th of April last.

4. That an act made in the 7th of Geo. 2, ch. 18, which was to continue in force from the 24th June, 1734, for seven years, and from thence to the end of the then next session of parliament, and which, by several subsequent acts, passed in the 14th, 20th, 27th, and 33rd, of his said late majesty, was further continued, from the expiration thereof, until the 29th Sept., 1767, and from thence to the end of the then next session, is near expiring, and fit to be continued.

May 7. 1. That there be laid an additional duty of one halfpenny per ell upon all foreign canvas, packing, spruse, Elbing, or Quinsborough, imported into this kingdom.

2. That there be laid an additional duty of 1*d.* per ell, on all foreign canvas, Dutch barrass, or Hessens, imported into this kingdom.

3. That all foreign lawns imported into this kingdom, be rated as Silesia lawns, and pay accordingly.

4. That over and above the said duty, an additional duty of 3*d.* per yard be laid upon all foreign lawns.

5. That 15,000*l.* per annum, arising from the said duties, do remain in the receipt of the exchequer, as a fund for the encouragement of raising and dressing hemp and flax in this kingdom, in such way and manner as parliament shall hereafter direct; and that the remainder of the said duties be reserved in the exchequer for the future disposition of parliament.

May 19. 1. That there be granted to his Majesty, upon the postage and conveyance of letters and packets between Great Britain and the Isle of Man; for every single letter 2*d.*, for every double letter 4*d.*, for every treble letter 6*d.*, and for every ounce 8*d.*, and so in proportion for every packet of deeds, writs, and other things.

2. For the postage and conveyance of letters and packets within the said island, such rates, in proportion to the number of miles, or stages, as are now established for the island, port, or conveyance of letters and packets in England.

3. That the monies arising by the said rates be appropriated to such uses as the present rates of postage are now made applicable.

June 2. 1. That the duties upon logwood exported from this kingdom be discontinued.

2. That the properties of any number of persons whatsoever, in any ship or cargo, or both, be allowed to be assured, to the amount of any sum, not exceeding 1,000*l.*, by a policy stamped with one 5*s.* stamp; and to the amount of any larger sum, by a policy stamped with two such stamps.

3. That the allowance authorised to be made by an act passed in the 29th of his late Majesty, upon prompt payment of the stamp duties on licences for retailing beer, ale, and other exciseable liquors, be reduced to the same rate as the allowances for prompt payment of other stamp duties.

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4. That upon the exportation from this kingdom of coffee and cocoa nuts, of the growth or produce of the British colonies or plantations in America, as merchandize, a drawback be allowed of the duties of customs payable upon the importation thereof.

5. That grey or scrow salt, salt scale, sand scale, crustings, or other foul salt, be allowed to be taken from the salt works in England, Wales, or Berwick upon Tweed, to be used as manure, upon payment of a duty of 1*d.* per bushel only.

6. That provision be made for declaring that ribbons and silks, printed, stained or painted, in this kingdom, though less than half a yard in breadth, are within the meaning of certain acts made in the 10th and 12th of queen Anne, and liable to the duties therein mentioned.

7. That the duties payable upon succus liquoritiæ, imported into this kingdom, be repealed.

8. That in lieu thereof, a duty of 30*s.* per cwt. be laid upon succus liquoritiæ imported into this kingdom.

9. That the said duty be appropriated to such uses as the duty so to be repealed was made applicable.

10. That a subsidy of 6*d.* in the pound, according to the value specified in the book of rates, referred to by an act made in the 12th of king Charles 2, be laid upon the exportation from this kingdom, of such rice as shall have been imported duty free, by virtue of an act made in this session of parliament.

11. That the said duty on rice be reserved in the exchequer for the disposition of parliament.

12. That the drawbacks payable on China earthen-ware exported to America be discontinued.

13. That a duty of 4*s.* 8*d.* per cwt. avoirdupois, be laid upon all crown, plate, flint, and white glass, imported into the British colonies and plantations in America.

14. That a duty of 1*s.* 2*d.* per cwt. avoirdupois, be laid upon all green glass imported into the said colonies and plantations.

15. That such duties as shall be equal to a moiety of the duties granted by two acts of parliament, made in the 10th and 12th of her majesty queen Anne, and now payable in pursuance thereof, or of any subsequent act of parliament, upon paper, paste-board, mill-boards, and scale-boards, respectively, be laid upon paper, paste-boards, mill-boards, and scale-boards, imported into the said colonies and plantations.

16. That a duty of 2*s.* per cwt. avoirdupois, be laid upon all red and white lead, and painters colours, imported into the said colonies and plantations.

17. That a duty of 3*d.* per pound weight, avoirdupois, be laid upon all tea imported into the said colonies and plantations.

18. That the said duties, to be raised in the said colonies and plantations, be applied in making a more certain and adequate provision for the charge of the administration of justice, and the support of civil government, in such of the said colonies and plantations where it shall be found necessary; and that the residue of such duties be paid into the receipt of his Majesty's exchequer, and there reserved to be, from time to time, disposed of by parliament, towards defraying the necessary expences of defending, protecting, and securing, the said colonies and plantations.

19. That, upon the exportation of teas to Ireland, and the British dominions in America, a drawback be allowed for a time to be limited, of all the duties of customs, which shall have been paid thereupon; and that such indemnification be made, by the East India Company, to the public, in respect of such drawback, as is mentioned in the petition of the said Company.

20. That the inland duty of 1*s.* per pound weight upon all black and single teas consumed in Great Britain, be taken off, for a time to be limited; and that such indemnification be made, by the said Company, to the public, in respect to such duty, as is mentioned in the petition of the said Company.

*The King's Speech at the Close of the Session.**] July 2. The King put an end

* "April 6, 1767. I can give you no account of our political world, which is in a situation that I never saw in my whole life. Lord Chatham has been so ill, these last two months, that he has not been able, (some say not willing), to do or hear of any business; and for his *sous-ministres*, they either cannot, or dare not, do any, without his directions; so that every thing is now at a stand. This situation, I think, cannot last much longer.

"May 5, 1767. Things are here in exactly the same situation in which they were when I wrote to you last, Lord Chatham is still ill,

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to the Session with the following Speech to both Houses:

"My Lords, and Gentlemen,

"The advanced season of the year, joined to the consideration of the inconvenience you must all have felt from so long an absence from your several counties, calls upon me to put an end to the present session of parliament, which I cannot do, without returning you my thanks for your diligent application to the public business, and the proofs you have given of your affection for me, for my family, and for my government: and although, from the nature and extensiveness of the several objects under your consideration, it could not be expected, that all the great commercial interests should be completely adjusted and regulated in the course of this session, yet I am persuaded, that by the progress you have made, a solid foundation is laid for securing the most considerable and essential benefits to this nation.

"As no material alteration has happened in the state of foreign affairs since your first meeting, I have nothing to communicate to you on that subject. The fixed objects of all my measures are to preserve the peace, and at the same time, to assert and maintain the honour of my crown, and the just rights of my people.

"Gentlemen of the House of Commons,

"I thank you for the necessary supplies which you have so cheerfully granted for the public service; and my particular acknowledgments are due to you, for the provision you have enabled me to make for the more honourable support and maintenance of my family.

"My Lords, and Gentlemen,

"The great attention which you have shewn to the particular purpose for which I called you so early together, and the very wholesome laws passed for relieving my subjects from the immediate distress which the great scarcity of corn threatened to bring upon them, give me the most sensible pleasure. I rely upon you for the exertion of your utmost endeavours to convince my people, that no care has been wanting to procure for them every relief which has been possible; and that their grateful sense of provisions so wisely made for their present happiness and lasting prosperity cannot be so fully expressed, as by a strict observance of that order and regularity, which are equally necessary to the security of all good government, as well as to their own real welfare."

The Parliament was then prorogued to the 31st of August; and was afterwards further prorogued to the 24th of November.*

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and only goes abroad for an hour in a day, to take the air, in his coach. The king has, to my certain knowledge, sent him repeated messages, desiring him not to be concerned at his confinement, for that he is resolved to support him, *pour et contre tous.*

"June 1, 1767. Great changes are talked of, and I believe will happen very soon, perhaps next week, but who is to be changed, for whom, I do not know, though every body else does. I am apt to think that it will be a Mosaic ministry, made up *de pièces rapportées* from different connections.

"July 1, 1767. Ministerial affairs are still in the same ridiculous and doubtful situation as when I wrote to you last. Lord Chatham will neither hear of or do any business, but lives at Hampstead, and rides about the heath: his gout is said to be fallen upon his nerves." Lord Chesterfield to his Son.

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* "Before the prorogation of parliament, the ministry was considered on the eve of dissolution. General Conway declared his resolution to resign, though he consented to continue in office till a successor was nominated. He assigned, as a reason, his impatient desire to be again united with his friends, and reluctance in continuing to oppose them. Lord Northington announced a similar determination, alleging his inability to attend public business, on account of ill health. In consequence of these intimations, the King wrote to lord Chatham, informing him of his design to make some alterations in the ministry, and requiring his advice and assistance. Lord Chatham returned a verbal answer, excusing himself from interfering in any new arrangement, as his health was too much impaired for exertion.

"The parties in opposition knowing these facts, entertained hopes of a speedy and total change in the cabinet. The duke of Newcastle, anxious to prevent the effect of separate overtures to the bodies composing the opposition, was strenuous in cementing the union between the Bedford and Rockingham parties. An offer was speedily made from the duke of Grafton to the marquis of Rockingham; but he declined entering into any negociation without the advice of his friends. The leaders of opposition held a meeting, to prepare necessary arrangements; but they could not agree in some essential nominations; the conference terminated abruptly, and, though renewed on a subsequent day, as none would recede from their former opinions, the parties again separated. The ministry therefore retained their situations.

"This inflexibility rendered it impossible for the King to employ either the duke of Bedford

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SEVENTH SESSION
OF THE
TWELFTH PARLIAMENT
OF
GREAT BRITAIN.

The King's Speech on opening the Session.] November 24, 1767. His Majesty came to the House of Peers and opened the Session with the following Speech to both Houses:

"My Lords, and Gentlemen,

"I have chosen to call you together at this season of the year, that my parliament might have full deliberations upon all such branches of the public service, as may require their immediate attention; without the necessity of continuing the session beyond the time most suitable to my people, for the election of a new parliament: and I doubt not but you will be careful, from the same considerations, to avoid in your proceedings, all unnecessary delay.

"Nothing in the present situation of affairs abroad gives me reason to apprehend, that you will be prevented, by any interruption of the public tranquillity, from fixing your whole attention upon such points, as concern the internal welfare and prosperity of my people.

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or the marquis of Rockingham, for they had refused to accept official situations separately, and could not agree on such terms as might enable them to act together. The ministry, finding that no conditions they could offer would enable them to acquire strength by a junction with their opponents, were obliged to conduct the public business unassisted.

"Lord Chatham's health was now deemed irrecoverable, and, in fact, the ministry were neither benefited by his advice nor supported by his popularity. They wanted a distinguished leader, of talents, character, and reputation, who could give efficacy to their measures, and by force of superior powers, enchain those minor pretenders, who, in the absence of such a chief, disdained submission, and embroiled the cabinet. The Chancellor of the Exchequer had before entertained similar views, and now projected a new administration, of which he should be the leader. His talents were amply sufficient to justify the intention, and he could have united a body, more respectable, more competent, and more capable of cordial and beneficial co-operation than those who were at the helm. Under him, the ministry would have assumed, at least, a more decided character, and the public no longer would have felt that they retained their situations merely by the want of union in their adversaries, and stood only by their own weakness. He obtained for his brother, lord Townshend, the vice-royalty of Ireland, designated Mr. Yorke, son of the late lord Hardwicke, for chancellor, and probably had made other appointments, when his life was unexpectedly terminated by a putrid fever.

"Charles Townshend, from whose splendid abilities government was expected to receive a new impulse, and whose talents were employed in an attempt to rescue the administration from the feebleness of fluctuating councils, was descended from Charles viscount Townshend, the able and upright minister of the House of Brunswick. He passed through the schools with distinguished reputation, and was celebrated for that pointed and finished wit which rendered him the delight and ornament of parliament, and the charm of private society. In his speeches he brought together in a short compass all that was necessary to establish, to illustrate, and to decorate that side of the question which he supported. He stated his matter skilfully and powerfully; his style of argument was neither trite and vulgar, nor subtle and abstruse. He excelled in a most luminous explanation and display of his subject. His defects arose from his lively talents and exquisite penetration: he readily perceived and decried the errors of his co-adjutors, and from the versatility of his political conduct acquired the nickname of the Weather-cock. He sat in parliament twenty years, and successively filled the places of lord of trade, and of the admiralty, secretary at war, pay-master of the forces, and chancellor of the exchequer, in which offices he executed business with such accuracy and dispatch, as demonstrated that genius and industry are not incompatible. He was carried off in the meridian of life, at the age of forty-two, at a time when it might be hoped his lively talents were matured by experience, and the irregular sallies of his versatile temper, subjected to the restraints of judgment.

"This event renewed the difficulty of effecting a ministerial arrangement; the chancellorship of the exchequer was filled *ad interim* by lord Mansfield. It was offered to lord North, who, for some reasons which are not precisely known, declined accepting it. The offer was subsequently made to lord Barrington, who had discharged the duties of the same station with distinguished ability, under the administration of the duke of Newcastle; during a period of no inconsiderable difficulty. Lord Barrington expressed great reluctance at being placed in a situation to which he thought lord North's parliamentary talents more equal, but declared his readiness to undertake the office from a sense of duty to his king and country, if a renewed application to lord North should fail; a negociation was attempted with the duke of Bedford, but without effect, and at length lord North was prevailed on to accept the office.

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"Among these objects of a domestic nature, none can demand a more speedy or more serious attention, than what regards the high price of corn, which neither the salutary laws passed in the last session of parliament, nor the produce of the late harvest, have yet been able so far to reduce, as to give sufficient relief to the distresses of the poorer sort of my people. Your late residence in your several counties must have enabled you to judge, whether any farther provisions can be made conducive to the attainment of so desirable an end.

"Gentlemen of the House of Commons,

"I will order the proper officers to lay before you the Estimates for the service of the ensuing year.

"The experience I have had of your constant readiness to grant me all such Supplies as should be found necessary for the security, interest, and honour of the nation, (and I have no other to ask of you) renders it unnecessary for me to add any exhortations upon this head: and I doubt not but the same public considerations will induce you to persevere with equal alacrity, in your endeavours to diminish the national debt: while, on my part, no care shall be wanting to contribute, as far as possible, to the attainment of that most essential object, by a very frugal application of such supplies as you shall grant.

"My Lords and Gentlemen,

"The necessity of improving the present general tranquillity to the great purpose of maintaining the strength, the reputation, and the prosperity of this country, ought to be ever before your eyes. To render your deliberations for that purpose successful, endeavour to cultivate a spirit of harmony among yourselves. My concurrence in whatever will promote the happiness of my people you may always depend upon: and in that light I shall ever be desirous of encouraging union among all those who wish well to their country."

The Lords' Address of Thanks.] His Majesty having retired, the following Address, moved by the earl of Macclesfield, was agreed to:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects the Lords spiritual and temporal in parliament assembled, return your Majesty our humble Thanks for your most gracious Speech from the throne.

"We acknowledge with gratitude your Majesty's tender regard and concern for your people in assembling the parliament at such a season, as, whilst it provides for the convenience of your people, will allow sufficient time for our deliberations on the several branches of the public service that may require our immediate attention; and we beg leave to assure your Majesty that it shall be our hearty desire to forward your Majesty's most gracious purpose, by avoiding in our proceedings all unnecessary delay.

"We sincerely rejoice in the prospect of the continuance of the general tranquillity; and it is our firm resolution to give, at a time so favourable for such considerations, our strictest attention to all those objects, that may more immediately affect the internal welfare and happiness of your people.

"We assure your Majesty, that our

"Lord North, eldest son of Francis earl of Guilford, was now in the 36th year of his age: he commenced his education at Eton, and completed it at Oxford, with considerable reputation for his proficiency in classical literature. His elegant taste as a scholar was eminent through a life fully occupied with the most momentous public concerns. On his travels he applied with much assiduity to the acquisition of diplomatic knowledge, and studied with great success the Germanic constitution, under the celebrated Mascove. He commenced his parliamentary career in 1754, and during Mr. Pitt's administration, in 1759, obtained a seat at the treasury board; he was removed by the Rockingham ministry in 1765, but, with lord Chatham, came again into office, as joint paymaster of the forces. His talents, erudition, and experience, eminently qualified him for the important situation he was now called upon to fill. His abilities for debate were universally acknowledged, and had been advantageously displayed in the motions against Wilkes, and in the discussions on India affairs.

"Mr. Thomas Townshend succeeded lord North as paymaster, and Mr. Jenkinson was appointed a lord of the treasury; lord Northington and general Conway resigning, lord Gower was made president of the council, lord Weymouth secretary of state, and lord Sandwich joint post-master general. These promotions indicated an accommodation between the ministry and the Bedford party, and the cabinet was further strengthened by the appointment of lord Hillsborough to the office of secretary of state for America. The ministry, thus modelled, was called the duke of Grafton's Administration; for although lord Chatham still retained his place, he was incapable of transacting business; in consequence of which, the privy seal was for a short time put in commission, though it was afterward restored to him." Adolphus.

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earnest endeavours shall not be wanting for the relief of the distresses which the poor labour under from the high price of corn, if any further provisions can be made conducive to so desirable an end.

"Permit us, Sir, to congratulate your Majesty on the safe delivery of the Queen, and the birth of a prince, and to assure your Majesty of our unfeigned joy on any increase of your domestic felicity; at the same time, that we consider every addition to your illustrious House, as a further security of our religious and civil liberties.

"We beg leave to condole with your Majesty on the death of his royal highness the duke of York, and to testify our sincere concern for the loss of a prince, whose virtues and amiable qualities, as they distinguished his life, will ever be held in the most grateful remembrance.

"Your Majesty may be assured, that, being fully sensible of the necessity of improving the present tranquillity, to the purpose of maintaining the strength, the reputation, and prosperity of this country, we will cheerfully contribute, on our part, to the success of such measures as shall be thought most expedient for the attainment of that great end; and that, with this view, we shall endeavour to cultivate that spirit of harmony and union which your Majesty, in your paternal care for the happiness of your people, has most graciously recommended from the throne, and on which the success of our councils, and the public welfare so essentially depend."

The King's Answer.] His Majesty returned this Answer:

"My Lords,

"Your readiness to provide for the public services, with the unanimity and dispatch so necessary at this juncture, as well as to avail yourselves of the present general tranquillity, in order to promote the internal prosperity of my people, is highly agreeable to me; and I rely upon your assurances, that you will use your endeavours to relieve the distresses which the poor labour under from the high price of corn. I thank you for the joy you express on the increase of my royal family; and I feel for the part you take in my concern for the unexpected loss of my late brother the duke of York."

Debate in the Commons on the Address of Thanks.] The Commons being returned to their House,

Lord *Beauchamp* moved, That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House for his most gracious Speech from the throne.

"To acknowledge his Majesty's goodness and attention to the convenience of his people, in calling his parliament together at this time; and to assure his Majesty, that we will endeavour to improve the opportunity which the present happy state of peace and tranquillity affords, by exerting our utmost abilities in the prosecution of such measures as may most effectually promote the public welfare and prosperity.

"That we are equally sensible of his Majesty's paternal care, in the measures already taken by his Majesty to alleviate the distresses of the poor; and of his royal wisdom, in recommending the same interesting and important object to the consideration of his parliament; and that we will not fail to take into our most attentive deliberation all such measures as shall appear conducive to the accomplishment of that great and most desirable end.

"To congratulate his Majesty on the late increase of his royal family, by the birth of a prince; and to assure his Majesty that we regard as an addition to the happiness and welfare of this nation every increase of that illustrious House, under whose mild and auspicious government our religious and civil liberties have been so happily maintained and protected.

"That it is therefore with equal grief and anxiety we reflect on the late untimely loss of his Majesty's royal brother, the duke of York; whose early and ready zeal in his country's cause shewed him worthy of the heroic race he sprang from; and whose amiable virtues, in the more private scenes of life, must ever make his memory dear to all who had the happiness of approaching him.

"To assure his Majesty, that this House will, with a zeal and alacrity becoming the representatives of an affectionate and grateful people, readily grant such supplies as shall be requisite for the support of his Majesty's government, for advancing the honour and interest of this country, and effectually providing for the public safety.

"And that our regard to his Majesty's recommendation, as well as the indispensable duty we owe to those whom we represent, will make us earnestly attentive

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to the great object of diminishing the National Debt; being convinced that nothing can so effectually tend to add real lustre and dignity to his Majesty's government, or to give solid and permanent strength to these kingdoms.

"That with these views, and in these sentiments, we will endeavour, with the utmost unanimity and dispatch, to promote the public service, and to deserve, by our sincere and unwearied labours for the general good, that confidence which it has pleased his Majesty to repose in us; not doubting of his Majesty's gracious disposition to confirm and perfect what our true zeal may suggest, for the lasting advantage and happiness of his people."

The House was moved, that his Majesty's Speech, to both Houses of Parliament, upon the 2d of July, in the last session of parliament, might be read. And the same being read accordingly; an Amendment was proposed to be made to the question, by inserting, after the words "most desirable end:" these words, "and to assure his Majesty, that sensible of his paternal and affectionate concern for the welfare and prosperity of his people, we will immediately apply ourselves to the further consideration of the most proper methods for assisting and encouraging the manufactures of his Majesty's kingdom, and for preserving, extending, and improving its foreign trade:" and the question being put, that those words be there inserted; it passed in the negative.

Mr. *Conway* supported the proposed Address; and concluded with a panegyric on the late Mr. Charles Townshend:*

having mentioned his talents, abilities, judgment, sagacity, &c., he said, that his dear lamented friend had engaged himself to prepare a plan to be submitted to parliament, for the effectual relief of the poor in the article of provisions; and he had no question that, if that great man had survived, he would have been able to perform his promise; but, unfortunately for the public, his plan was lost with him: that it was easy to find a successor to his place, but impossible to find a successor to his abilities, or one equal to the execution of his plans. The House ought not, therefore, to be surprized, that the King's surviving servants had not yet been able to devise any scheme for the relief of the poor, although a man of Mr. Townshend's superior qualifications might have been fully equal to the task.

Mr. *Edmund Burke* then got up, and spoke nearly to the following purport:*

Mr. Speaker; the condition of this country, at the conclusion of the last spring, was such as gave us strong reason to expect, that not a single moment of the interval between that period and our winter meeting would be lost or misemployed. We had a right to expect, that gentlemen, who thought themselves equal to advise about the government of the nation, would,

* "Charles Townshend was the delight and ornament of this House, and the charm of every private society which he honoured with his presence. Perhaps there never arose in this country, nor in any country, a man of a more pointed and finished wit; and (where his passions were not concerned) of a more refined, exquisite, and penetrating judgment. If he had not so great a stock, as some have had who flourished formerly, of knowledge long treasured up, he knew better by far, than any man I ever was acquainted with, how to bring together within a short time, all that was necessary to establish, to illustrate, and to decorate that side of the question he supported. He stated his matter skilfully and powerfully. He particularly excelled in a most luminous explanation, and display of his subject. His style of argument was neither trite and vulgar, nor subtle and abstruse. He hit the House between wind and water: and not being troubled with too anxious a zeal for any matter in question, he was never more tedious, or more earnest, than the pre-conceived opinions, and present temper of his hearers required; to whom he was always in perfect unison. He conformed exactly to the temper of the House; and he seemed to guide, because he was always sure to follow it. There are many young members in the House (such of late has been the rapid succession of public men) who never saw that prodigy Charles Townshend; nor of course knew what a ferment he was able to excite in every thing, by the violent ebullition of his mixed virtues and failings. For failings he had undoubtedly—many of us remember them; we are this day considering the effect of them. But he had no failings which were not owing to a noble cause; to an ardent, generous, perhaps, an immoderate passion for fame; a passion which is the instinct of all great souls. He worshipped that goddess wheresoever she appeared; but he paid his particular devotions to her in her favourite habitation, in her chosen temple, the House of Commons." Mr. Burke's Speech on American Taxation, April 19, 1774.

* This is the first Speech of Mr. Burke's of which any report has been preserved. It is copied from the Political Register, vol. 2, p. 259.

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during this period, have applied all their attention, and exerted all their efforts, to discover some effectual remedy for the national distress. For my own part, I had no doubt that, when we again met, the administration would have been ready to lay before us some plan for a speedy relief of the people, founded upon such certain lights and informations as they alone are able to procure, and digested with an accuracy proportioned to the time they have had to consider of it: but if these were our expectations, if these were the hopes conceived by the whole House, how grievously are we disappointed! after an interval of so many months, instead of being told that a plan is formed, or that measures are taken, or, at least, that materials have been diligently collected, upon which some scheme might be founded for preserving us from famine; we see that this provident ministry, these careful providers, are of opinion, they have sufficiently acquitted themselves of their duty, by advising his Majesty to recommend the matter once more to our consideration, and so endeavouring to relieve themselves from the burden and censure which must fall somewhere, by throwing it upon parliament. God knows in what manner they have been employed for these four months past. It appears too plainly they have done but little good—I hope they have not been busied in doing mischief; and though they have neglected every useful, every necessary occupation, I hope their leisure has not been spent in spreading corruption through the people.

Sir, I readily assent to the laborious panegyric which the hon. gentleman upon the floor has been pleased to make on a very able member of the administration, whom we have lately lost: no man had a higher opinion of his talents than I had; but as to his having conceived any plan for remedying the general distress about provisions, (as the gentleman would have us understand) I see many reasons for suspecting that it could never have been the case. If that gentleman had formed such a plan, or if he had collected such materials as we are now told he had, I think it is impossible but that, in the course of so many months, some knowledge or intimation of it must have been communicated to the gentlemen who acted with him, and who were united with him, not less by friendship than by office. He was not a reserved man; and surely, Sir, his colleagues, who had every opportunity of hearing his sentiments in office, in private conversation, and in this House, must have been strangely inattentive to a man, whom they so much admired, or uncommonly dull, if they could not retain the smallest memory of his opinions on matters on which they ought naturally to have consulted him often. If he had even drawn the loosest outlines of a plan, is it conceivable that all traces of it should be so soon extinguished? To me, Sir, such an absolute oblivion seems wholly incredible. Yet, admitting the fact for a moment, what an humiliating confession it is for an administration, who have undertaken to advise about the conducting of an empire, to declare to this House, that by the death of a single man, all projects for the public good are at an end, all plans are lost, and that this loss is irreparable, since there is not a leader surviving, who is in any measure capable of filling up the dreadful vacuum!

But I shall quit this subject for the present; and, as we are to consider of an Address in return to the Speech from the throne, I beg leave to mention some observations occuring to me upon the Speech itself, which I think I am warranted, by the established practice of this House, to treat merely as the speech of the minister.

The chief and only pretended merit of the Speech is, that it contains no extraordinary matter, that it can do no harm, and consequently that an address of applause upon such speech is but a mere compliment to the throne, from which no inconvenience can arise, nor consequence be drawn. Now, Sir, supposing this to be a true representation of the Speech, I cannot think it does the administration any great honour, nor can I agree, that to applaud the throne for such a Speech, would be attended with no inconvenience. Although an address of applause may not enter into the approbation of particular measures, yet it must unavoidably convey a general acknowledgment, at least, that things are, upon the whole, as they should be, and that we are satisfied with the representation of them, which we have received from the throne. But this, Sir, I am sure, would be an acknowledgment inconsistent with truth, and inconsistent with our own interior conviction, unless we are contented to accept of whatever the ministry please to tell us, and wilfully shut our eyes to any other species of evidence.

As to the harmlessness of the Speech, I must, for my own part, regret the times,

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when speeches from the throne deserved another name than that of innocent; when they contained some real and effectual information to this House, some express account of measures already taken, or some positive plan of future measures, for our consideration. Permit me, Sir, to divide the present Speech into three heads, and a very little attention will demonstrate how far it is from aiming at that spirit of business and energy, which formerly animated the speeches from the throne: you will see, under this division, that the small portion of matter contained in it is of such a nature, and so stated, as to preclude all possibility or necessity of deliberation in this place. The first article is, 'That every thing is quiet abroad.' The truth of this assertion, when confirmed by an enquiry, which I hope this House will make into it, would give me the sincerest satisfaction; for certainly there never was a time when the distress and confusion of the interior circumstances of this nation made it more absolutely necessary to be upon secure and peaceable terms with our neighbours: but I am a little inclined to suspect, and indeed it is an opinion too generally received, that this appearance of good understanding with our neighbours deserves the name of stagnation, rather than of tranquillity; that it is owing not so much to the success of our negociations abroad, as to the absolute and entire suspension of them for a very considerable time. Consuls, envoys, and ambassadors, it is true, have been regularly appointed, but, instead of repairing to their stations, have, in the most scandalous manner, loitered at home; as if they had either no business to do, or were afraid of exposing themselves to the resentment or derision of the court to which they were destined. Thus have all our negotiations been conducted, and thus they have been dropped. Thus hath the Manilla ransom, that once favourite theme, that perpetual echo with some gentlemen, been consigned to oblivion. The slightest remembrance of it must not now be revived. At this rate, Sir, foreign powers may well permit us to be quiet; it would be equally useless and unreasonable in them to interrupt a tranquillity, which we submit to purchase upon such inglorious terms, or to quarrel with an humble, passive government, which hath neither spirit to assert a right nor to resent an injury. In the distracted, broken, miserable state of our interior government, our enemies find a consolation and remedy for all that they suffered in the course of the war, and our councils amply revenge them for the successes of our arms.

The second article of the Speech contains 'a recommendation of what concerns the dearness of corn, to our immediate and earnest deliberation.' No man, Sir, is more ready than myself, as an individual, to shew all possible deference to the respectable authority under which the Speech from the throne is delivered; but, as a member of this House, it is my right, nay, I must think myself bound to consider it as the advice of the minister; and, upon this principle, if I would understand it rightly, or even do justice to the text, I must carry the minister's comment along with me. But what, Sir, has been the comment upon the recommendation made to us from the throne? Has it amounted to any more than a positive assurance that all the endeavours of administration to form a plan for relieving the poor in the article of provisions, have proved ineffectual? That they neither have a plan, nor materials of sufficient information to lay before the House, and that the object itself is, in their apprehensions, absolutely unattainable? If this be the fact, if it be really true that the minister, at the same time that he advises the throne to recommend a matter to the earnest deliberation of parliament, confesses in his comment that this very matter is beyond the reach of this House, what inference must we necessarily draw from such a text, and from such an illustration? I will not venture to determine what may be the real motive of this strange conduct and inconsistent language, but I will boldly pronounce, that it carries with it a most odious appearance. It has too much the air of a design to exculpate the crown, and the servants of the crown, at the expence of parliament. The gracious recommendation in the Speech will soon be known all over the nation. The comment and true illustration added to it by one of the ministry will probably not go beyond the limits of these walls. What then must be the consequence? The hopes of the people will be raised. They of course will turn their eyes upon us, as if our endeavours alone were wanting to relieve them from misery and famine, and to restore them to happiness and plenty; and at last, when all their golden expectations are disappointed; when they find that, notwithstanding the earnest recommendation from

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the crown, parliament has taken no effectual measures for their relief, the whole weight of their resentment will naturally fall upon us their representatives. We need not doubt but the effects of their fury will be answerable to the cause of it. It will be proportioned to the high recommending authority, which we shall seem not to have regarded; and when a monarch's voice cries Havoc, will not confusion, riot, and rebellion make their rapid progress through the land? The unhappy people, groaning under the severest distress, deluded by vain hopes from the throne, and disappointed of relief from the legislature, will, in their despair, either set all law and order at defiance; or, if the law be enforced upon them, it must be by the bloody assistance of a military hand. We have already had a melancholy experience of the use of such assistance. But even legal punishments lose all appearance of justice, when too strictly inflicted on men compelled by the last extremity of distress to incur them. We have been told, indeed, that if the crown had taken no notice of the distress of the people, such an omission would have driven them to despair: but I am sure, Sir, that to take notice of it in this manner, to acknowledge the evil, and to declare it to be without remedy, is the most likely way to drive them to something beyond despair —to madness; and against whom will their madness be directed, but against us their innocent representatives?

With respect to the third and last head, into which the Speech may be divided; I readily agree that there is a cause of discord somewhere: where it is, I will not pretend to say. That it does exist is certain, and I much doubt whether it is likely to be removed by any measures taken by the present administration. As to vague and general recommendations to us to maintain unanimity amongst us, I must say I think they are become of late years too flat and stale to bear being repeated. That such are the kind sentiments and wishes of our monarch, I am far from doubting; but when I consider it as the language of the minister, as a minister's recommendation, I cannot help thinking it a vain and idle parade of words without meaning. Is it in their own conduct that we are to look for an example of this boasted union? Shall we discover any trace of it in their broken, distracted, councils, their public disagreements and private animosities? Is it not notorious that they only subsist by creating divisions among others; that their plan is to separate party from party? Friend from friend? Brother from brother? Is not their very motto *divide et impera*? When such men advise to unite, what opinion must we have of their sincerity? In the present instance, however, the Speech is particularly farcical. When we are told that affairs abroad are perfectly quiet, and consequently that it is unnecessary for us to take any notice of them; when we are told that there is indeed a distress at home, but beyond the reach of this House to remedy; to have unanimity recommended to us in the same breath, is, in my opinion, something lower than ridiculous. If the two first propositions be true, in the name of wonder, upon what are we to debate? upon what is it possible for us to disagree? On one point our advice is not wanted; on the other it is useless: but it seems it will be highly agreeable to the ministry to have us unite in approving of their conduct; and if we have concord enough amongst ourselves to keep in unison with them and their measures, I dare say that all the purposes of administration aimed at by the Address, will be fully answered, and entirely to their satisfaction. But this is a sort of union, which I hope never will, which I am satisfied never can, prevail in a free parliament like ours. While we are freemen we may disagree; but when we unite upon the terms recommended to us by the administration, we must be slaves.

The Commons' Address of Thanks.] The following Address was then agreed to without a division:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects the Commons of Great Britain in parliament assembled, return your Majesty our most humble thanks for your most gracious Speech from the throne.

"We beg leave most gratefully to acknowledge your Majesty's goodness, and attention to the convenience of your people, in calling your parliament together at this time; and to assure your Majesty, that we will endeavour to improve the opportunity which the present happy state of peace and tranquillity affords, by exerting our utmost abilities in the prosecution of such measures as may most effectually promote the public welfare and prosperity.

"We are equally sensible of your Ma-

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jesty's paternal care, in the measures already taken by your Majesty to alleviate the distresses of the poor; and of your royal wisdom, in recommending the same interesting and important object to the consideration of your parliament; and we will not fail to take into our most attentive deliberation, all such measures as shall appear conducive to the accomplishment of that great and most desirable end.

"It is with unfeigned joy that we presume to offer our congratulations to your Majesty on the late increase of your royal family, by the birth of a prince; and to assure your Majesty that we regard as an addition to the welfare and happiness of this nation, every increase of that illustrious House, under whose mild and auspicious government our religious and civil liberties have been so happily maintained and protected.

"And it is with equal grief and anxiety that we reflect on the late untimely loss of your Majesty's royal brother, the duke of York; whose early and ready zeal in his country's cause, shewed him worthy of the heroic race he sprang from; and whose amiable virtues, in the more private scenes of life, must ever make his memory dear to all who had the happiness of approaching him.

"We beg leave most humbly to assure your Majesty, that this House will, with a zeal and alacrity becoming the representatives of an affectionate and grateful people, readily grant such supplies as shall be requisite for the support of your Majesty's government, for advancing the honour and interest of this country, and effectually providing for the public safety.

"And that our regard to your Majesty's recommendation, as well as the indispensable duty we owe to those whom we represent, will make us earnestly attentive to the great object of diminishing the national debt: being convinced that nothing can so effectually tend to add real lustre and dignity to your Majesty's government, or to give solid and permanent strength to these kingdoms.

"With these views, and in these sentiments, we will endeavour, with the utmost unanimity and dispatch, to promote the public service, and to deserve, by our sincere and unwearied labours for the general good, that confidence which it has pleased your Majesty to repose in us; not doubting of your Majesty's gracious disposition to confirm and perfect what our true zeal may suggest, for the lasting advantage and happiness of your people."

The King's Answer.] His Majesty gave this Answer:

"Gentlemen,

"I return you my very sincere thanks for your dutiful and loyal Address; the part you take in the late happy event in my family completes the satisfaction which I receive from it; and your affection to me appears equally manifest, from the share you take in the melancholy incident which we all regret, and serves as a consolation to me. I see with pleasure the continuance of that zeal, and true public spirit, which I have long experienced in my faithful Commons, by your attention to the several objects recommended to your consideration, and particularly to the means of providing against a scarcity of corn, and for paying the public debt. You may depend upon my invariable attention to the happiness and prosperity of my kingdom."

Petition from the City of London on the High Price of Provisions.] November 24. The Sheriffs of London presented to the House the following Petition from the lord mayor, aldermen, and commons, of the city of London in common council. The said Petition was then read; setting forth,

"That the present high prices of grain, and all other sorts of provisions, particularly in the metropolis, forcibly call upon the petitioners, humbly to solicit the earnest attention of the House to the distresses of the industrious poor, whose situation, whilst it excites compassion for the immediate sufferers, cannot but raise the apprehensions of the legislature, for the consequences thereof to the manufactures, trade, and population, and ultimately to the landed interest of Great Britain; and that the petitioners most gratefully acknowledge the wisdom and goodness of parliament, in the acts passed last session, for prohibiting the exportation, and allowing the free importation of corn and grain, and (in part) restraining the distillery; humbly trusting, that the House will be of opinion, not to suffer those salutary regulations to expire, until the produce of the next year's harvest shall be clearly known, and the poor manufacturer, and labourer, secure of bread, at a moderate price. That the dearness of flesh-meat, fish, and other necessaries, at this time, seem (in the judgment of the petitioners) also to require some speedy and effectual relief; and therefore, they submit it to the

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wisdom of the House, whether the deficiency therein arising, partly from former calamities, not yet repaired, ought not, during the present exigency, to be supplied by a free importation. That the petitioners trust the House, (after providing some immediate relief for the present urgent necessities) will turn their thoughts to more lasting and extensive regulations, which (as far as human wisdom can) may prevent the like difficulties for the future. The petitioners think it a duty incumbent on them, humbly to lay before the House such considerations as have occurred to them, on this important subject. In the first place, the petitioners humbly conceive, that although a moderate bounty on the exportation of corn and grain, in times of great plenty and cheapness, may be a wise and necessary encouragement to the cultivation and increase thereof, and the present bounty has, in fact, made them cheaper than they were before (some few unfavourable seasons only excepted); and although the exportation of our surplus appears a necessary and highly beneficial trade to the nation in general; yet as the consumption of wheat is become much more general within this kingdom since the commencement of the bounty, the petitioners conceive it might now be good policy to reduce the highest bounty price thereof to a more moderate sum; and it appears probable to the petitioners, that if the bounty had some years ago been limited to what has been the average price since the year 1688, it might have preserved to this country all the wheat which has been exported at the intermediate prices, and all the money that has been paid to replace it with foreign corn, of a much inferior quality. Secondly, That the acts relating to the bounty are defective, in not expressly restraining it to grain of the growth of this kingdom, the exporters from the outports (Berwick upon Tweed only excepted) not being called upon to make any proof thereof, whereby the intentions of parliament may, in some measure, have been frustrated, and the public revenue defrauded. Thirdly, That the present method of ascertaining the bounty price also appears defective in several particulars, which (in the port of London at least) might be remedied, by taking the average price, as weekly returned upon oath to the court of lord mayor and aldermen of the said city. Fourthly, That the market hours not being fixed by law, gives undue advantages to speculative and designing men, and tends to enhance the price of the necessaries of life to the consumer. Fifthly, That the present regulations in the assize of bread seem highly disadvantageous to the poor, who, as the petitioners humbly conceive, might be supplied cheaper, and better, if only one sort of bread was made assizeable. Sixthly, That the great increase in the breed of horses, (owing partly to the growing practice of employing them, instead of oxen, in tillage, and partly to the great demands from abroad), has greatly contributed to diminish the number of cattle for slaughter, and necessarily tends to enhance the price thereof, which the petitioners apprehend, might be corrected, by a duty upon the exportation of horses, and a small bounty upon the use of oxen in tillage. Seventhly, That the scarcity of grown cattle, and consequently the dearness of flesh-meat, are still farther increased by the unlimited destruction of ewe lambs, and cow calves, in all seasons of the year, merely to gratify the unreasonable appetite of the rich and luxurious. Eighthly, That the prevailing practice of consolidating small farms not only tends to render many articles of provision and consumption scarce, but must, in time, depopulate the country of its most useful inhabitants, by depriving the industrious poor both of labour and habitation. Lastly, That the misguided and often ill-grounded resentment of the common people, in times of public calamity, (by prompting them to destroy mills, corn, and other provisions, and to obstruct the removal of the latter from one place to another) is not only an injury to their fellow subjects, but also to themselves, by aggravating the very evils they complain of; and therefore, for their sakes, as well as that of the public, ought to be timely and effectually prevented or suppressed. And therefore praying the House to take these important matters into their most serious consideration, and to provide such remedies as their respective natures shall appear to require, or admit, and such as the House shall judge consistent with the real and permanent interests of the whole kingdom."

This was followed by a Petition of the mayor and burgesses of the Devizes in Wiltshire, complaining of the distresses of the poor from the dearness of corn and other provisions, and also of the high price of wool; praying the House to take

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the premises into consideration, and provide such remedies for the distresses of the poor, as should be thought prudent and fitting. These Petitions were severally ordered to be referred to the consideration of the committee of the whole House, to whom it was referred to consider of the several acts passed in the last session of parliament, relative to corn and provisions.

The consequence of these Petitions, was a continuation of the acts passed last session, prohibiting the exportation of corn, &c., and allowing an importation from America.

1768.

Proceedings against the Magistrates of Oxford for offering a Bribe to their Members.] January 26, 1768. One of the most remarkable occurrences of this session was an affair that related to a sum of money, which the magistrates of Oxford demanded of sir Thomas Stapleton and the hon. Robert Lee, who represented it, for their re-election in the ensuing new parliament. This corporation, it seems, was indebted in a considerable sum of money expended for its own public purposes, the interest of which made a very disagreeable diminution in its revenues, which were no way in a condition to pay the principal off. Thus situated, several of the magistrates wrote a joint letter to their members, acquainting them with the state of their affairs, and offering to re-choose them at the approaching general election, provided they advanced such a sum as would be sufficient to extricate the city from its difficulties.

It is generally affirmed, and as generally believed, that the gentlemen who signed this letter to sir T. Stapleton and Mr. Lee were not actuated by any motives of self-interest, and that they only meant to benefit the corporation in general by their request. The gentlemen, however, did not chuse to comply with it; but this day complained to the House of the Letter, as containing a corrupt offer of electing them for the City of Oxford, at the next general election. In consequence of which the said members were ordered to attend in their places on the 1st of February.

February 1. Sir T. Stapleton and Mr. Lee attended in their places. Mr. Lee acquainted the House, that he had not received a letter from the mayor and corporation of Oxford in the last summer; but that he had received a letter, signed with the names of the mayor, and several of the members of the corporation of the said city, some time in the summer of 1766; and he produced the said letter, together with a paper, inclosed in the said letter, purporting to be a State of the City of Oxford's Accounts. And the said member also produced a copy of the Letter, which himself and sir T. Stapleton wrote to the said mayor and corporation, in answer to the said Letter: and the said papers were delivered in at the clerk's table, and read; and are as follow:

Copy of a Letter from the Mayor, &c. of the City of Oxford, to the hon. Robert Lee.

"*Oxford, 12th May*, 1766.

"Sir; the debts and circumstances of the city of Oxford, having been laid before a council of the city, held by order of the mayor on Monday the 24th March last, and it then appearing, that the city were indebted to their bond creditors in the sum of 5,670*l.* exclusive of the annuities, benefactions, and charities, which are paid by the city, and annually amount to more than the nett income of their estates: and as some person or persons have, without the consent of the council of this city, taken upon themselves to expose the city to a person in London, by offering to elect any two persons to be representatives for this city in parliament at the next general election, who would advance 4,000*l.*: the mayor and council have therefore unanimously come to a resolution, in order to prevent all opposition, animosity, and confusion, and to extricate themselves out of their present difficulties, to apply to you and sir T. Stapleton (in the first instance) for your assistance to discharge the bond debts due from the city, by which means they will be enabled to do justice to their creditors, and, as they apprehend, preserve peace and unanimity in the city. But if it should not be agreeable to you and sir Thomas to advance the money, the whole council are determined to apply to some other person or persons in the county to do it, and if possible, by that means, to keep themselves from being sold to foreigners. We therefore, whose names are hereunder written, have, by order of the council, taken the liberty of troubling you with the above, and also with the enclosed state of the city debts and income: and as we are directed by the council to report

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your answer to them, so we must beg leave to trouble you to send your answer to the mayor as soon as it is agreeable to you, that he may call a council, and lay the same before them. We are, Sir, &c. Philip Ward, mayor.—John Treacher, Tho. Munday, Tho. Wise, John Nicholes, John Phillips, Isaac Lawrance, Richard Tawney, Anthony Weston.—Tho. Robinson, John Brown, bailiffs.

"P. S. The corporation think themselves very much obliged to you for your late generous benefaction to them, and are sorry their necessities oblige them to trouble you with this Letter."

COPY of a Letter from the hon. Robert Lee and sir Tho. Stapleton, to the Mayor, &c. of Oxford, dated 30th July 1766.

"Mr. Mayor, and Gentlemen,

"We think it incumbent on us to return you thanks for the preference you are generously pleased to give us of purchasing your corporation; but as we never intend to sell you, so we cannot afford the purchase. As it has been always our determined resolution, that if we could not serve our country, we would not be concerned in betraying it; while you remained independent, we thought it a peculiar honour to represent you; and had you continued in that state, we should have been heartily and sincerely at your service. ROBERT LEE.

"THOMAS STAPLETON."

The magistrates who signed the above Letter were commanded to appear before the House on the 5th instant, when they were all committed to Newgate, and the thanks of the House were given to sir Thomas Stapleton and Mr. Lee for their conduct in this transaction.

February 9. A Petition of Philip Ward, John Treacher, Thomas Wise, John Nicholes, sir Thomas Munday, John Phillips, Isaac Lawrance, Richard Tawney, Thomas Robinson, and John Brown, was presented to the House, and read; setting forth, "That the petitioners are now prisoners in his Majesty's gaol of Newgate, by virtue of an order of the House, for a high and flagrant breach of the privilege of the House, tending to subvert the freedom and independence of parliament, by subscribing and sending to the hon. Robert Lee, and sir Thomas Stapleton, baronet, the two members for the city of Oxford, a Letter, dated from thence the 12th of May 1766; and that the petitioners are truly sensible of the enormity of their offence, and unfeignedly sorry for the same; and beg leave most humbly to represent to the House, that the continuance of their confinement will be of the utmost ill consequence to themselves and their respective families: and that some of the petitioners' lives will be imminently endangered thereby; the petitioners Thomas Wise, John Nicholes, sir Thomas Munday, and John Phillips, being in a very bad state of health; and the rest of the petitioners are engaged in very extensive business, which must be greatly neglected, or totally stopped, by their absence; and therefore praying the House to take their unhappy circumstances into consideration, and give orders that they may be released from their confinement."

Ordered, That the said petitioners be brought to the bar of this House, to-morrow morning, in order to their being discharged.

February 10. The said petitioners were brought to the bar; where they, upon their knees, received the following Reprimand from Mr. Speaker, and were ordered to be discharged, paying their fees.

"Philip Ward, John Treacher, sir Thomas Munday, Thomas Wise, John Nicholes, John Phillips, Isaac Lawrance, Richard Tawney, Thomas Robinson, John Brown; the offence of which you have been guilty has justly brought you under the severe displeasure of this House. A more enormous crime you could not well commit; since a deeper wound could not be given to the constitution itself, than by the open and dangerous attempt which you have made to subvert the freedom and independence of this House.

"The freedom of this House is the freedom of this country, which can continue no longer than while the voices of the electors are uninfluenced by any base or venal motive. For if abilities and integrity are no recommendation to the electors; if those who bid highest for their voices are to obtain them from such detestable considerations; this House will not be the representatives of the people of Great Britain. Instead of being the guardians and protectors of their liberties, instead of redressing the grievances of the subject, this House itself will be the authors of the worst of grievances: they will become the venal instruments of power to reduce this happy nation, the

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envy and admiration of the world, to the lowest state of misery and servitude. This is the abject condition to which you have attempted to bring your fellow subjects.

"Many circumstances concur to aggravate your offence. The place of your residence was a singular advantage. You had at all times the example of one of the most learned and respectable bodies in Europe before your eyes. Their conduct in every instance, but especially in the choice of their representatives in parliament, was well worthy your imitation.

"You are magistrates of a great city. In such a station, it was a duty peculiarly incumbent upon you to watch over the morals of your fellow citizens; to keep yourselves pure from venality; and to prevent, by your influence, those under your government from being tainted by this growing and pestilential vice. How have you abused this trust! You yourselves have set the infamous example of prostitution, in the most public and daring manner.

"Surely you must have felt some remorse from the generous disdain with which your corrupt offer was rejected by your representatives. They thought, and justly thought, that a seat in this House, obtained by a free and independent choice of their constituents, was the highest honour to which a subject can aspire; and that discharging their duty, as such representatives, was the noblest of services. Sorry am I to say, that these considerations do not appear to have had the least weight with you.

"However, you have at last acknowledged your guilt; and, by your petition yesterday, you seem conscious of the enormity of your offence. This House, in the terror of its judgments, always thinks upon mercy; nor do they ever inflict punishment but for the sake of example, and to prevent others from becoming the objects of their resentment.

"The censure passed upon you will, they hope, have that effect. You are now the objects of their mercy; and are brought to the bar to be discharged.

"May you be penetrated with a due sense of their justice and lenity! May you atone for your past offence, by your constant endeavours to make a right use of the invaluable privileges which you enjoy as electors! Consider these privileges as a sacred trust reposed in you. Discharge it with integrity.

"But, before you rise from your present posture, I do, in obedience to the commands of this House, Reprimand you.

"I am to acquaint you, that you are discharged, paying your fees."

East India Dividends Bill.] The affairs of the East India Company were now become as much an object of annual consideration, as the raising of the supplies; and though the agreement they had entered into with the government was to continue another year, yet as the act which restrained their dividends to 10 per cent. was now expired, a Bill was brought in, to restrain them in the same manner for the ensuing year. The Company, greatly alarmed at the apparent perseverance in a measure which they apprehended so totally subvertive of their rights, presented on the 15th of January a strong petition against it. In this they shewed the right they had by their charter to declare their own dividends; that the regulations already established by the legislature will at all times be sufficient to prevent an improvident use being made of such powers; and assure the House, that they will make no increase of their dividends, unless the situation of their affairs shall afford ample conviction, that in justice and prudence they will be warranted in so doing.

This measure occasioned great debates in the Commons. The advocates for the Bill made use of the same arguments which were used upon passing the former, and which we then took notice of; those who opposed it took some new ground, from the experience they had in the effects of that measure. It was observed, that such an exertion of supreme power was equally unnecessary and dangerous, after having had the most mortifying experience of the operation of a like restriction last year, which increased the very mischief it was intended to remedy: that, as the circumstances of the Company are clear beyond a doubt, and their opulence verified beyond the most sanguine expectation, and no supposed misconduct of theirs calling for the interposition of parliament; this Bill can only be considered as a mere act of power, without a colour of delinquency on the part of the Company, or of necessity on that of the public: that it appears altogether unaccountable, to pass in one year an Act for regulating the modes and conditions of declaring dividends by the Company; and the very next year, to prohibit the exercise of those very powers so regulated: that this

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law, made on purpose to regulate the method of declaring dividends, does of necessity imply the exercise of that right under the conditions therein prescribed, which cannot be taken away from the Company, without the most signal disgrace to the wisdom and good-faith of the legislature, and the subversion of every principle of legal government.

It was also observed, that to restrain the subject in the disposition of his own property, without any other pretence than the mere possibility of abuse, is a principle unheard of in any free country, and most alarming to all the monied and trading interests of this kingdom: that it goes to the subjecting to the same restraint, on the same loose reasons, every great company as well as every public or private stock, which may become of magnitude sufficient to tempt in future times an impoverished treasury and a rapacious administration, since no degree of innocence can be a security against such suspicion of a possible fraud; and such suspicion may be made a ground for continuing an arbitrary restraint, until the subject shall consent to ransom his property on such terms as shall be prescribed to him.

These and many other reasons were urged with great force, but to very little effect; and the Restraining Bill was carried a second time by a very great majority. It met, as well as the former, with a great opposition in the House of Peers, and the following Protest was entered against it.

Protest against passing the East India Dividends' Bill.] February 8. The Bill entitled, 'An Act for farther regulating the proceedings of the United Company of merchants of England trading to the East Indies, with respect to the making of Dividends,' being read a third time, the question was put, Whether the said Bill should pass? It was resolved in the affirmative.

"Dissentient,

1. "Because this Bill is an exertion of the supreme power of parliament, equally unnecessary and dangerous, after having had the most mortifying experience of the operation of a like restriction last year, which increased the very mischief it was intended to remedy, at a time when the circumstances of the Company are clear beyond a doubt, and their opulence verified beyond the most sanguine expectation: no supposed misconduct of the Company calling for the interposition of parliament; no rash and excessive dividends declared; no increase of dividends even desired: on the contrary, the Company have restrained itself on principles much more rational than those adopted by the Bill, as they have a reference to their circumstances and not to a fixed period of time, marked by an arbitrary resolution. We cannot, therefore, avoid considering this Bill as a mere act of power, without a colour of delinquency on the part of the Company, or of necessity on the part of the public.

2. "Because it appears to us, that this Bill is a high violation of the national faith, taking away, without any judicial process, or even any criminal charge, that power of declaring dividends, which the Company purchased from the public for a valuable consideration.

3. "Because it appears to us altogether unaccountable, to pass in one year an act for regulating the modes and conditions of declaring dividends by the Company; and, in the very next year, to prohibit the exercise of those very powers so regulated; this act is now in full force: no defect in it has been stated; no amendment has been proposed; no infraction has been pretended. This law, made expressly to regulate the method of declaring dividends, does of necessity imply the exercise of that right under the conditions therein prescribed, which cannot be taken from the East India Company, without the most signal disgrace to the wisdom and good faith of the legislature, and the subversion of every principle of legal government.

4. "Because it appears to us, that to restrain the subject in the disposition of his own property, without any other pretence than the mere possibility of abuse (this Bill having been chiefly defended upon that ground) is a principle unheard of in any free country, and most alarming to all the trading and monied interests of this kingdom; it goes to the subjecting, to the same restraint, on the same loose reasons, every great company, as well as every public or private stock, which may become of magnitude sufficient to tempt, in future times, an impoverished treasury, and a rapacious administration, since no degree of innocence can be a security against such suspicion of a possible fraud; and such a suspicion may be made a ground for continuing an arbitrary restraint, until the subject shall consent to ransom his property on such terms as shall be prescribed to him.

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5. "Because this annual restraint tends to establish a perpetual interposition of parliament, in declaring dividends for this Company, and indeed all companies whatsoever, to the increase of that most dangerous and infamous part of stock-jobbing which is carried on by clandestine intelligence, and to the vesting it in the worst of all hands, those of administration; for a minister, who shall hereafter acquire in parliament (by whatever means) sufficient influence for the purpose, may, by his power of increasing, diminishing, or withholding dividends at his pleasure, have all the stockholders in these companies (a body extremely considerable for wealth and numbers) entirely at his mercy, and probably at his disposal, to the infinite increase of the already overgrown, and almost irresistible influence of the crown.

6. "Because we apprehend, that this unprecedented practice of declaring dividends in parliament, may become a more alarming mode of undue influence on the members themselves, than any of those which have hitherto so frequently excited the jealousy of the legislature, since it furnishes a fund of corruption far greater than any hitherto known; a fund in its nature inexhaustible, of the greatest facility in the application, and quite out of the reach of all discovery and prosecution. We think the principle of this Bill the first step towards the introduction of such a new system of corruption, and have therefore resisted it, lest the constitution should become totally perverted from the ends for which it was originally established, and be no longer venerated by this nation, as giving security to liberty and property, and protection to the subject from all violence and injustice on the part of government. *(Signed)* Richmond, King, Portland, Rockingham, Monson, Lyttelton, Temple, Fred. Exon, Winchelsea and Nottingham, Dartmouth, Ponsonby."

Proceedings in the Commons on the Nullum Tempus Bill.] February 17. Sir George Savile moved for leave to bring in a Bill "for quieting the possessions of the subject, and for amending and rendering more effectual an Act of the 21st of James 1, entitled an Act for the general quiet of the subject, against all pretences of concealment whatsoever." This motion was seconded by sir Anthony Abdy, but after a long debate, it passed in the negative by 134, against 114.

This proposition was so remarkable, not only for the importance of the interests that were to be affected by it, but by the events which preceded and probably gave rise to it, that it will not be amiss to take up the matter from the beginning*. The duke of Portland and his ancestors had been in possession about seventy years of a very considerable estate in the north of England, in consequence of a grant made by the late king William to the first earl of the present family, of the honour of Penrith in the county of Cumberland, and the appurtenances thereunto belonging. The forest of Inglewood, and the manor and castle of Carlisle, were considered as parts of this grant; and have been accordingly enjoyed by the family by the same tenure and in the same quiet possession as the rest. By what has lately appeared, it is probable that they are not particularly specified in this grant; but were supposed to be included as parts of the whole. It is also possible that the king, who had sufficiently experienced the extreme jealousy of the parliament and people, on every mark of attention which he shewed to his countrymen, did not chuse to excite fresh clamours by an ample specification of terms in a grant to his favourite.

Sir James Lowther, who is possessed of a very great fortune in the same county, and who seems to have been well informed of all the circumstances relative to this grant, presented a memorial [July 9, 1767] to the lords of the treasury, in which he set forth, That he was informed that the forest of Inglewood, and the soccage of the castle of Carlisle, had been long withheld from the crown without its receiving any benefit from them; and therefore he prayed a lease of his Majesty's interest therein for three lives, upon such terms as should appear fitting to their lordships.

This memorial was referred by the board of treasury to the surveyor general of crown lands, for his opinion. The surveyor, in his report in answer to the board, said, that the premises in question were not conveyed by the grant from king William to the earl of Portland, but were still invested in the crown; and recommended to their lordships to grant the lease demanded, for three lives, at a certain small reserved rent which he specified, viz. 50*l.* per ann. for the soccage of Carlisle, and 15*s.* 4*d.* for the forest, and a third part of the rent of such lands, &c.

* See Annual Register for 1768, p. 78.

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as shall be recovered from the duke of Portland.

This report of the surveyor, who is himself no lawyer, was returned to the board, on a dubious and intricate question in law, without his taking the opinion of the attorney or solicitor general, or hearing the duke of Portland's lawyers in defence of his title. The proceeding seemed the more extraordinary, as the memorial was delivered, the report made, and the affair in agitation, near two months before the duke received any authentic information of it; [Sept. 2,] and even then it was the effect of an inquiry, first founded on vague report and hearsay, rather than of a designed or regular notice. The board of treasury having then also adjourned for above a month, it was out of the duke's power during that time to make any representations on the subject; and as it was vacation time, when all the lawyers are out of town, it was an impediment to his preparing his title properly to lay before it.

As soon as the board met, a memorial was presented by the duke, praying to be heard by counsel in defence of his title, before it proceeded to any act in consequence of sir James Lowther's application. In answer to this memorial he received a letter from the secretary of the treasury, in which it was desired by order of the lords, that the duke would lay before the board a state of his claim and title to the forest of Inglewood, which they would refer to the surveyor general, and would at the same time send him back the report which he had made on sir James Lowther's memorial, for his farther consideration. It was also promised, that no step should be taken towards the decision of the matter in question, till the duke's title had been stated, referred to, and reported on by the proper officer, and fully and maturely considered by the board of treasury.

The duke, in consequence of this assurance, employed his agents in inspecting and taking copies of several records and evidences in the different public offices, which were necessary for the stating and preparing of his title by the lawyers. This was a tedious and important work, as the point upon which the question hung was, whether the forest and manor in debate were appurtenances belonging to the honour of Penrith. To enter into this disquisition, it was necessary to consult a long train of precedents, grants, surveys, verdicts, and innumerable acts of ownership, for some hundreds of years back, from the time of Richard 3, who, when duke of Gloucester, was possessed of that honour. In the course of this inquiry, the duke's agents thought it proper to examine, whether the facts mentioned in the surveyor's report were fairly and impartially stated. To this purpose, application was made at the surveyor's office, for permission to inspect the surveys, court rolls, and monuments on which he had founded his report. This application was however without effect: and the permission absolutely refused to be granted.

Upon the duke's return to town, he presented a memorial to the board, in which he prayed, That, as all public records ought and by all courts of judicature are directed to be inspected for the benefit of the parties interested, an order may be issued to the surveyor's office, for liberty to inspect such surveys, court rolls, &c. as related to the matter in question. The board answered by their secretary, That an order for that purpose should be granted: not as a foundation of right, but as a matter of candour and civility.

However it was, though the clerks received the fees for the drawing up of this order it could never be procured. After various delays and evasions, it was at last said to have been sent to the surveyor's office: and upon enquiry there, the receipt of it was denied. It afterwards appeared that an answer to it had been sent by the surveyor, to the treasury, two days before the time of denial, in which he remonstrated against the inspection of any papers by those who litigate the rights of the crown.

In this manner were the duke's agents trifled with till Christmas; and while they were thus busied in preparing his title under the instructions of the board, the grants were made to sir James Lowther of the possessions in question, and had passed through all the seals except that of the exchequer. This was done without any previous notice or citation to the duke; and before he or his agents were even apprized that the inspection at the surveyor's office would not be complied with. At length the duke received a letter in the country, from the secretary of the treasury, dated the 22nd of December, in which he was informed that the grant was passed, and the leases already signed. Nothing now remained but to stop its progress in the exchequer-office,

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where a caveat had before been entered for that purpose. But upon application to the chancellor to with-hold the seal in consequence of the caveat, his lordship made answer, that he was pressed to affix the seal instantaneously; and that, as chancellor of the exchequer, he could not refuse to comply with an order from the board of treasury to that purpose.

As this measure was founded upon, and again bringing into use, the antiquated law, and prerogative maxim, of 'Nullum tempus occurrit Regi,' by which no length of time or possession can be a bar against the claims of the crown; and as all the lands in the kingdom have at different times been in its possession, and many of them, from the loss of authentic deeds and papers, may be liable to the revival of claims of a similar nature; so nothing could be more alarming to the landed property of the nation. Resumptions in most cases are disagreeable, and cautiously to be meddled with. In this, the particular circumstances that attended it, and the mode observed in the whole conduct, seemed as disagreeable as the act itself. It accordingly excited, not only a popular clamour, but a very general dissatisfaction, and became a subject of great debate both in public and private.

On one side the arbitrary spirit and dangerous tendency of the Nullum Tempus maxim, on which this grant was founded, was exposed with great ability. It was shewn that the exercise of any right supposed to be founded upon it was practised only by our worst and most arbitrary princes; and even by them with caution, as they were sensible of the general abhorrence which every act of the kind excited: that it had long been the opprobrium of prerogative, and the disgrace of the law; and that the ablest writers in that profession, and the best judges had always cast an odium on it, as being fundamentally contrary to natural equity, and all the maxims of a free government: that even in the arbitrary reign of James the first, a law was passed, in some degree, to prevent its evil effects: that as the constitution became then better established, the powers of its different parts defined, and the rights of the people delineated; this law was only made retrospective, as it could not be supposed that a maxim would be revived in more enlightened ages, which was always so odious in the darkest times: that the revival of it could be only to answer the most arbitrary purposes, to hang it up as a rod to awe the subject, who was liable to be harassed and ruined, by frivolous and vexatious suits, whenever he became obnoxious to a ministry.

It was said, that, as the duke's title was still under the protection of the laws, and there could be no doubt but he would defend it to the utmost, and the issue of such a suit must be very distant and very uncertain, therefore the present grant must be founded on the most unconstitutional motive, that of obtaining to a party a temporary and undue influence in the ensuing general election: that the avowed opposition of interests in the same county between the parties, and the particular connexions of one of them, left no room to doubt that this was the sole object in view.

It was observed, that, when our kings had little other revenue to support the court and civil list than what arose from their demesne lands, resumptions then, though cautiously practised, were necessary, when weak and prodigal princes had too much impoverished the crown by the making of profuse grants: that, in such cases, these resumptions were useful to the public, which must at any rate support the dignity of the crown. However, resumption, if it should ever become necessary, was the proper act of the legislature, and not of the crown: that things were now entirely changed; the crown had a great and permanent revenue settled on it by the public, fully sufficient to answer these purposes, and in a great measure designed to secure the quiet of the people in their possessions, and to prevent the litigations that arose from the claims of the crown, and the continual disputes that occurred about the disposition of its lands: that the colour which the defenders of the measure pretended to give it, of its being designed to lighten the burdens of the people, by finding a new source of revenue for the crown, was so ridiculous as not to deserve a serious answer: that the civil list establishment was fixed and permanent, and the paltry reserved rent too contemptible to be mentioned: that it was evidently a continuance of that ungracious system which had been pursued for some years, of taking every opportunity to affront and disgrace those families who had the principal share in the Revolution, and securing the accession of the House of Hanover to the throne: that the particular circumstances attending it sufficiently

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shewed, that the same hidden and undue influence, which was so obnoxious to the nation, and had so long directed its public councils, still presided in them, in the full plenitude of its power: and that the privacy, hurry, evasion, and duplicity, which attended the whole transaction, were a disgrace to government itself.

On the other side, the questions of law and right were chiefly insisted on. It was said, that the premises in question were no part of the honour of Penrith, and that they were neither specified, nor understood in the grant: that, the right being certain, it was no more a fault in the crown, than it would in a private person to assert it; that it would be happy if many such resumptions were made, to ease the burdens of the people: that the earl of Portland and his family were sufficiently compensated for any services he had performed to the nation; and that, after 70 years possession of an estate to which they had no right, they may contentedly resign it to the true owner, when there was no demand made upon them for the past issues; that supposing the charge of favouritism, his present Majesty had as good a right to reward his favourites as king William had; and that the natural influence which the possession of the crown lands afford in elections was disposed of with more propriety in the hands of the friends to administration, than in those who were in opposition to it.

The defenders of the measure did not enter much into the prudence and propriety of the grant, nor into a defence of the conduct by which it was carried into execution. It was only said, that the treasury was bound to follow the surveyor-general's report, and had given sufficient time to the duke to prepare his title, and that the reason of his not doing it was because he had none to shew.

It is evident on the face of this defence that it goes upon two principles, neither of which are tenable. First, that there is no equity in a prescriptive possession; contrary to the opinions of all writers of law in every country, and indeed to the common sense of mankind. The second is, that the surveyor-general's report is conclusive, so far as to oblige the treasury to make a grant to any informer to whom that report shall be favourable; a power in the surveyor-general, which they did not attempt to support by any law authority whatsoever. Upon the whole, without entering into a discussion of the questions of law or right, it may not be easy to defend the propriety of a measure, in general so alarming, and so extremely unpopular. Nor does it seem consistent with good policy, to disgust and irritate, upon trifling or needless occasions, the great families of any country; more especially under such a form and establishment of government as ours. Nor did the manner in which this transaction was conducted carry that face of clearness and equity, which is so necessary, and so desirable, in the administration of a great nation. Accordingly, as no one act tended so much to the unpopularity of administration, so the success that attended this measure was in proportion to the odium; the effects counteracted the design, and totally overthrew that interest in the north, which it was intended to establish and extend.

This motion was introduced entirely upon public grounds, and expressly guarded against the serving of any immediate or personal purpose, or the taking in any pendent or recent case. The purport of the law of James 1, is, that a quiet and uninterrupted enjoyment, for 60 years before the passing of the act, of any estate originally derived from the crown, shall bar the crown from any right of suit to recover such estate, under pretence of any flaw in the grant, or other defect of title. The amendment proposed by the motion was, to convert that fixed prescription of the act of k. James into a moving limitation; and to make 60 years possession in all future times a bar against the claims of the crown.

Notwithstanding the equitable ground on which this motion was founded, it met with a strong opposition from the ministry, whose conduct fell under the heaviest censure upon the occasion; but the subject was of a nature so interesting to all parties, and the arguments that must be used to oppose it so generally odious, that it was thought proper to change the mode of defence, and, under colour of the shortness of the session, to put it off till the next meeting of parliament. This manœuvre succeeded, but upon so close a division, that it afforded a majority of only twenty.

The following is a List of the Gentlemen who voted for the Motion.

Anson, Thomas	A'Court, lt.-gen. W.
Abdy, sir A. T. bart.	Aislabie, Wm.
Adams, George	Archer, hon. Andrew

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Aufrere, George	Craven, Thomas	Honeywood, Philip,	Palmerston, lord visc.
Bentinck, lord Edw.	Clive, Richard	Howard, Thomas	Parker, John
Bentinck, capt. John	Darker, John	Hunter, Tho. Orby	Pitt, hon. Thomas
Bertie, Peregrine	Deleval, G. Shaftoe	Irwin, John, m.-gen.	Prescott, George
Barrow, Charles	Dempster, George	Keck, Anthony Jas.	Ridley, Matthew
Beauclerck, hon. Aub.	Downe, lord visc.	Keppel, hon. Aug.	Rushout, John
Burdett, sir Robt. bt.	Dummer, Thomas	Ladbroke, sir Robt.	Sackville, lord Geo.
Bromley, Wm.	Dolben, sir Wm. bt.	Lascelles, Edwin	Savile, sir Geo. bt.
Baker, sir Wm.	Finch, Savile	Lascelles, Daniel	Scawen, James
Burt, Wm. Math.	Foley, Thomas, jun.	Lascelles, Edw.	Seymour, Henry
Burke, Wm.	Franckland, sir T.	Lawrence, William	Shiffner, Henry
Burke, Edmund	Fuller, Richard	Legh, Peter	Smith, sir Jarret, bt.
Bootle, R. Wilbraham	Gascoign, Bamber	Lenox, lord George	Tudway, Clement
Cave, sir Tho. bart.	Grey, lord	Long, sir James, bt.	Vansittart, Arthur
Cavendish, lord Geo.	Garth, Charles	Luther, John	Weddel, William
Cavendish, lord Fred.	Grenville, rt. hon. G.	Meredith, sir Wm. bt.	Way, Benjamin
Cavendish, lord John	Grenville, James, jun.	Mills, Richard	West, James
Cavendish, Richard	Grosvenor, Thomas	Molesworth, sir Jn. bt.	West, James, jun.
Cocks, Charles	Hamilton, Wm. Ger.	Manners, lord Robt.	White, John
Coke, Weyman	Hardy, sir Charles	Morgan, Tho. jun.	Winterton, earl
Codrington, sir Wm.	Hanbury, John	Morgan, Charles	Whateley, Thomas
Cholmondeley, Tho.	Harley, hon. Robt.	Murray, James	Walsh, John
Cholmley, Nath.	Harris, James	Newdigate, sir Rt. bt.	York, hon. Charles
Carnac, gen.	Heathcote, sir Gilbert,	Norris, John	York, hon. John
Cornewall, Velters	Hervey, hon. August.	Offley, John	TELLERS.
Cotton, sir J. Hynde	Hervey, hon. Wm.	Osbaldeston, Foun.	Armitage, sir Geo. bt.
Curzon, Asheton	Hewet, John	Orwell, lord	Montagu, Frederick
Curwen, Henry	Hotham, col. Chas.	Palmer, sir John, bt.	

Supplies granted for the Year 1768.] The following are the Resolutions of the Committee of Supply during this Session:

	£.	s.	d.
DECEMBER 3, 1767.			
That 16,000 men be employed for the sea service for 1768, including 4,287 marines.			
That a sum not exceeding 4*l.* per man per month, be allowed for maintaining them, including ordnance for sea service	832,000	0	7
DECEMBER 8.			
For the ordinary of the navy, including half pay to sea and marine officers, for 1768	416,403	0	11
That a number of land forces, including 2,460 invalids, amounting to 17,253 effective men, commission and non-commission officers included, be employed for 1768.			
For defraying the charge of the said number of land forces for 1768	606,221	12	10½
For maintaining his Majesty's forces and garrisons in the Plantations and Africa, including those in garrison at Minorca and Gibraltar, and for provisions for the forces in North America, Nova Scotia, Newfoundland, Gibraltar, the ceded islands, and Africa, for 1768	396,590	4	6½
For defraying the charge of the difference of pay between the British and Irish establishment of six regiments of foot, serving in the isle of Man, at Gibraltar, Minorca, and the ceded islands for 1768	7,226	17	2½
For the pay of the general and staff officers, in Great Britain, for 1768	12,237	7	3
For defraying the charge of full pay for 366 days, for 1768, to officers reduced, with the tenth company of several battalions reduced from ten to nine companies, and who remained on half pay at the 24th of December, 1765	5,227	14	0
For the charge of the office of ordnance, for land service, for 1768	159,323	11	6
For defraying the expence of services performed by the office of ordnance, for land service, and not provided for by parliament, in 1767	68,944	12	11
	1,672,540	1	6½
DECEMBER 15.			
That one third part of the capital stock of annuities, after the rate of 4*l.* per cent. established by an act made in the third year of his Majesty's reign, which shall remain after the 5th day of January next, be redeemed and paid off on the 5th of July next, after discharging the interest then payable in respect of the same	875,000	0	0
To enable his Majesty to redeem and pay off, the said one part			

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	£.	s.	d.
DECEMBER 21.			
Towards the buildings, rebuildings, and repairs of ships of war in his Majesty's yards, and other extra works, over and above what are proposed to be done upon the heads of wear and tear and ordinary, for 1768	277,954	0	0
To enable the trustees of the British Museum to carry on the execution of the trust reposed in them by parliament	2,000	0	0
	279,954	0	0
JANUARY 26, 1768.			
For paying the pensions to the widows of such reduced officers of his Majesty's land-forces and marines, as died upon the establishment of half pay in Great Britain, and who were married to them before the 25th of December, 1716, for 1768	1,536	0	0
Upon account of the reduced officers and marines, for 1768	132,431	0	0
For defraying the charge for allowances to the several officers and private gentlemen of the two troops of horse guards, and regiment of horse reduced, and to the superannuated gentlemen of the four troops of horse guards, for 1768	1,715	13	0
Towards defraying the charge of out pensioners of Chelsea-hospital, for 1768	106,949	17	6
Towards defraying the extraordinary expences of his Majesty's land forces, and other services, incurred to the 25th of December, 1767, and not provided for by parliament	199,988	4	2
	444,620	14	8
JANUARY 28.			
Upon account for maintaining and supporting the civil establishment of Nova Scotia, for 1768	3,895	1	11
Upon account for defraying the charges of the civil establishment of Georgia, and the incidental expences attending the same, from the 24th of June 1767, to the 24th of June 1768	3,986	0	0
Upon account for defraying the charge of the civil establishment of East Florida, and the incidental expences attending the same, from the 24th of June, 1767, to the 24th of June 1768	4,750	0	0
Upon account for defraying the expence of the civil establishment of West Florida, and other incidental expences attending the same, from the 24th of June 1767, to the 24th of June, 1768	4,400	0	0
Upon account for defraying the expences of general surveys of his Majesty's dominions in North America, for 1768	2,036	14	0
Upon account for defraying the charges of the civil establishment of Senegambia, for 1768	5,550	0	0
	24,657	15	11
FEBRUARY 1.			
For paying off and discharging the exchequer bills made out by virtue of an act passed in the last session of parliament for raising a certain sum of money by loans or exchequer bills, and charged upon the first aids to be granted this session	1,800,000	0	0
FEBRUARY 4.			
To replace to the sinking fund the like sum issued thereout, to make good the deficiency on Oct. 10, 1767, of the fund established for paying annuities in respect of 3,500,000*l.* borrowed by virtue of an act of the third of his present Majesty towards the supply granted for the service of 1763	59,322	16	10
To replace to ditto, the like sum paid out of the same, to make good the deficiency, on July 5, 1767, of the fund established for paying annuities in respect of five millions, borrowed by virtue of an act made in the 31st of his late majesty, towards the supply granted for the service of 1758	53,480	17	8½
To be employed in maintaining and supporting the British forts and settlements upon the coast of Africa, under the direction of the committee of merchants trading to Africa	13,000	0	0
That provision be made for the pay and clothing of the militia, and for the subsistence during the time they shall be absent from home on account of the annual exercise, for 1768.			
Upon account to enable the Foundling hospital, to maintain and educate such children, as were received into the same on or before the 25th of March 1760, from the 31st of December, 1767, exclusive, to the 31st of December 1768, inclusive, and the said sum to be issued without any deduction	10,000	0	0

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Upon account, for enabling the said hospital to put out apprentice the said children, so as that the said hospital do not give with one child more than 7*l*	2,000	0	0
	156,803	14	6¼

FEBRUARY 8.

To make good to his Majesty the like sum issued by his Majesty's orders, in pursuance of the addresses of this House	10,500	0	0
To make good the deficiency of the grants for the service of 1767	392,484	4	5¾
To replace to the sinking fund the like sum paid out of the same, to discharge for one year and a quarter, ended the 25th of December, 1767, the annuities after the rate of 4*l.* per cent. attending the remainder of the joint stock, established by an act of the third of his present Majesty, in respect of certain navy, victualling, and transport bills, and debentures, that have been redeemed, in pursuance of an act made in the last session, and the charges of management during the said term of the annuities	88,435	19	6¾
To replace to ditto the like sum issued thereout, to discharge from the 10th of October, 1767, to the 5th of January following, the annuities attending such part of the joint stock established by an act made in the third of his present Majesty, for granting several additional duties on wines imported, and certain duties on cyder and perry, and for raising the sum of 3,500,000*l.* by way of annuities and lotteries, to be charged on the said duties, as hath been redeemed in pursuance of an act made in the last session	8,750	0	0
To redeem and pay off the remaining parts of the said capital stock of annuities	1,750,000	0	0
	£.2,250,170	3	11¼
Total of the Supplies granted this session	£.8,335,746	11	2¼

WAYS *and* MEANS *for the Year* 1768.] The following are the Resolutions of the Committee of Ways and Means:

Dec. 7, 1767. That the duties upon malt, mum, cyder and perry, be continued from the 24th June 1768, to the 24th June 1769, and charged upon all the malt which shall be made, and all mum which shall be made or imported, and all cyder and perry which shall be made for sale, within the kingdom of Great Britain, 700,000*l.*

Dec. 10. That 3*s.* in the pound, and no more, be raised within the space of one year, from the 25th March 1768, upon lands, tenements, hereditaments, pensions, and personal estates, in that part of Great Britain called England, Wales, and the town of Berwick upon Tweed; and that a proportionable cess, according to the ninth article of the treaty of Union, be laid upon that part of Great Britain called Scotland, 1,528,568*l.* 11*s.* 11¾*d.*

Feb. 9, 1768. 1. That 1,900,000*l.* be raised in the manner following; that is to say, the sum of 1,300,000*l.* by annuities, after the rate of 3*l.* per cent., to commence from the 5th Jan. last, and 600,000*l.* by a lottery, to consist of 60,000 tickets, the whole of such sum to be divided into prizes, which are to be attended with the like 3*l.* per cent. annuities, to commence from the 5th Jan. 1769; and that all the said annuities be transferable at the bank of England, paid half yearly, on the 5th July, and the 5th Jan., in every year, out of the sinking fund, and added to, and made part of, the joint stock of 3*l.* per cent. annuities, which were consolidated at the bank of England, by certain acts made in the 25th and 28th years of the reign of his late Majesty, and several subsequent acts, and subject to redemption by parliament; that every contributor towards the said sum of 1,300,000*l.* shall, in respect of every 65*l.* agreed by him to be contributed for raising such a sum, be intitled to receive three tickets in the said lottery, upon payment of 10*l.* for each ticket; and that every contributor shall, on or before the 18th of this instant Feb., make a deposit with the cashiers of the bank of England of 15*l.* per cent., in part of the monies so to be contributed towards the said sum of 1,300,000*l.* and also a deposit of 5*l.* per cent., in part of the monies so to be contributed in respect of the said lottery, as a security for making the respective future payments to the said cashiers, on or before the times hereinafter limited; that is to say, on the 1,300,000*l.* 10*l.* per cent. on, or before, the 9th of April next; 10*l.* per cent. on, or before, the 7th of

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June next; 15*l.* per cent. on or before the 19th of July next; 15*l.* per cent. on, or before, the 20th of August next; 15*l.* per cent. on, or before, the 21st of Oct. next; 20*l.* per cent. on, or before, the 25th Nov. next. On the lottery for 600,000*l.* 25*l.* per cent. on, or before, the 17th of May next; 30*l.* per cent. on, or before the 28th of June next; 40*l.* per cent. on, or before, the 8th Sept. next. And that all the monies so received by the said cashiers be paid into the receipt of his Majesty's Exchequer, to be applied, from time to time, to such services as shall then have been voted by this House, in this session of parliament; and that every contributor who shall pay in the whole of his contribution towards the said sum of 1,300,000*l.* at any time, on, or before, the 17th Oct. next, or towards the said lottery, on, or before, the 25th June next, shall be allowed an interest by way of discount, after the rate of 3*l.* per cent. per ann., on the sums so completing his contribution respectively, to be computed from the day of completing the same, to the 25th Nov. next, in respect of the sum paid on account of the said 1,300,000*l.* and to the 8th of Sept. next, in respect of the sum paid on account of the said lottery.

2. That, from and after the 5th of April next, the annuities, after the rate of 4*l.* per cent., attending the remainder of the capital stock, established by an act made in the third year of his Majesty's reign, intituled, 'An Act for granting to his Majesty several additional duties upon wines imported into this kingdom, and certain duties upon all cyder and perry; and for raising the sum of 3,500,000*l.* by way of annuities and lotteries, to be charged on the said duties,' be charged upon, and made payable out of, the surplusses, excesses, or overplus monies, and other revenues, composing the fund commonly called the Sinking Fund, until the redemption of the said capital stock, which is to be completed on the 5th of Jan. 1769.

3. That the duties, revenues, and incomes, which now stand appropriated to the payment of the said annuities, be continued, and be, from and after the said 5th April, carried to, and made part of, the said fund, commonly called the Sinking Fund, towards making good the payment of the said annuities, and of the annuities after the rate of 3*l.* per cent. intended to be granted in respect of the said 1,900,000*l.*

4. That the sum of 1,800,000*l.* be raised, by loans, or Exchequer bills, to be charged upon the first aids to be granted in the next session of parliament; and such Exchequer bills, if not discharged, with interest thereupon, on, or before, the 5th April 1769, to be exchanged, and received in payment, in such manner as Exchequer Bills have usually been exchanged, and received in payment.

5. That there be applied the sum of 2,250,000*l.* out of such monies as shall, or may, arise out of the surplusses, excesses, or overplus monies, and other revenues, composing the fund commonly called the Sinking Fund.

6. That 70,000*l.* out of such monies as shall be paid into the receipt of the Exchequer, after the 2d Feb. 1768, and on, or before, the 5th April 1769, of the produce of all, or any of, the duties and revenues, which by any act or acts of parliament, have been directed to be reserved for the disposition of parliament, towards defraying the necessary expences of defending, protecting, and securing, the British colonies and plantations in America, be applied towards making good such part of the supply as hath been granted to his Majesty, for maintaining his Majesty's forces and garrisons in the plantations, and for provisions for the forces in North America, Nova Scotia, Newfoundland, and the ceded islands, for the year 1768.

7. That such of the monies, as shall be paid into the receipt of the Exchequer, after the 2d of Feb. 1768, and on, or before, the 5th April 1769, of the produce of the duties charged, by an act of parliament made in the 5th of his present Majesty's reign, upon the importation and exportation of gum senega, and gum arabic, be applied towards making good the supply granted to his Majesty.

8. That the sum of 400,000*l.* which is to be paid within the present year, into the receipt of his Majesty's Exchequer, by the united company of merchants of England trading to the East Indies, in pursuance of an act made in the last session of parliament, intituled, 'An Act for establishing an agreement for the payment of the annual sum of 400,000*l.* for a limited time, by the East India Company, in respect of the territorial acquisitions and revenues lately obtained in the East Indies,' be applied towards making good the supply granted to his Majesty.

9. That the charge of the pay and clothing of the militia, in that part of Great Britain called England, for one year, beginning the 25th March, 1768, be de-

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frayed out of the monies arising by the land-tax, granted for the service of the year 1768.

Feb. 22. That 106,358*l.* 17*s.* 8*d.* out of the sums received for provisions delivered to the troops serving in North America, and of certain sums charged on the pay of the forces serving at Minorca, the Floridas, and in Africa, and out of the balance of the 12*d.* in the pound deduction from the pay of the out-pensioners of Chelsea-hospital, from the 25th June 1757, to the 4th Dec. 1767, and also out of the monies remaining in the hands of the earl of Kinnoul, and the executors of the late earl of Darlington, and of the late Thomas Potter, esq. being part of the balances of said earls of Darlington and Kinnoul, and Thomas Potter, as paymasters general of his Majesty's forces, be applied towards making good the supply granted to his Majesty, towards defraying the extraordinary expences of his Majesty's land forces, and other services, incurred to the 25th Dec. 1767, and not provided for by parliament.

Feb. 23. 1. That grew or crow-salt, salt-scale, sand-scale, crustings, or other foul-salt, be allowed to be taken from the salt works in England, Wales, or Berwick upon Tweed, to be sold as manure, upon payment of a duty of four-pence per bushel only.

2. That all policies, by which the property of one person, or of a particular number of persons in one general partnership, or of one body politic or corporate, in any ship or cargo, or both, shall be assured, to the amount of more than 1,000*l.* be stamped with two 5*s.* stamps.

3. That so much of an act, made in the 33rd of his late majesty, intituled, 'An Act for encouraging the exportation of rum and spirits, of the growth, produce, and manufacture of the British sugar plantations from this kingdom, and of British spirits, made from molasses,' as directs that the rum, or spirits, of the growth, produce, and manufactures of the British sugar plantations, in America, which should be intitled to the allowance of the duty of custom, and freed from the duty of excise, on exportation thereof, should be proof spirits, be repealed.

4. That upon the exportation of such rum, or spirits, there be an allowance, or drawback, of all the duties of customs payable upon the importation thereof; and that such rum, or spirits, be freed and discharged from all the duties of excise, though the same shall not be proof spirits.

The King's Speech at the Close of the Session.] March 10. The King came to the House of Peers, and put an end to the Session with the following Speech to both Houses:

"My Lords and Gentlemen;

"The readiness with which you entered into the views I recommended to you at the opening of this session, and the assiduity with which you have applied yourselves to the dispatch of the public business, give me great satisfaction. At the same time the affectionate concern you have shewn for the welfare of your fellow subjects by the salutary laws passed for their relief, in respect to the high price of provisions, cannot fail of securing to you their most grateful regard.

"I have nothing new to communicate to you in relation to foreign affairs. The apparent interest of the several powers in Europe, as well as the express assurances I have received from them, leave me no room to doubt of their disposition to preserve the general tranquillity: and, on my part, you may rest assured, that every measure that is consistent with the honour of my crown, and the rights of my subjects, shall be steadily directed to that most salutary purpose.

"Gentlemen of the House of Commons;

"Your cheerfulness in granting the necessary supplies, and your attention to the ease of my good subjects in the manner of raising them, equally demand my acknowledgments. I see with pleasure that you have been able to prosecute your plan for the diminution of the national debt, without laying any additional burthen upon my people.

"My Lords and Gentlemen;

"As the time limited by law for the expiration of this parliament now draws near, I have resolved forthwith to issue my proclamation for dissolving it, and for calling a new parliament: but I cannot do this, without having first returned you my thanks for the many signal proofs you have given of the most affectionate attachment to my person, family, and government; the most faithful attention to the public service, and the most earnest zeal for the preservation of our excellent constitution. When, by the vigorous support which you gave me during the war, I have been enabled, under the divine Providence, to restore to my people the blessings of peace, you continue to exert

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yourselves with equal alacrity and steadiness in pursuing every measure that could contribute to the maintenance of the public safety and tranquillity, which you well understood could no otherwise be preserved than by establishing, on a respectable foundation, the strength, the credit, and the commerce of the nation. The large supplies you have from time to time granted, and the wise regulations you have made for these important purposes, will, I am persuaded, be found to have been productive of the most beneficial consequences.

"In the approaching election of representatives, I doubt not but my people will give me fresh proofs of their attachment to the true interest of their country, which I shall ever receive as the most acceptable mark of their affection to me. The welfare of all my subjects is my first object. Nothing therefore has ever given me more real concern, than to see any of them, in any part of my dominions, attempting to loosen those bonds of constitutional subordination, so essential to the welfare of the whole. But it is with much satisfaction that I now see them returning to a more just sense of what their own interest, no less than their duty, indispensably requires of them, and thereby giving me the prospect of continuing to reign over an happy, because an united people."

The Parliament was then prorogued, and on the 12th instant was dissolved.*

* "December 19, 1767. In one of our conversations, I desired lord Chatham to secure you a seat in the New Parliament; he assured me he would; and, I am convinced, very sincerely: he said even that he would make it his own affair; and desired I would give myself no more trouble about it. Since that, I have heard no more of it; which made me look out for some venal borough; and I spoke to a borough-jobber, and offered five-and-twenty-hundred pounds for a secure seat in parliament; but he laughed at my offer, and said, that there was no such a thing as a borough to be had now, for the rich East and West Indians had secured them all, at the rate of three thousand pounds at least; but many at four thousand; and two or three, that he knew, at five thousand.

"January 29, 1768. Lord Chatham is at his house at Hayes, but sees no mortal. Some say that he has a fit of the gout, which would do him good; but many think that his worst complaint is in his head, which I am afraid is too true. Were he well, I am very sure he would realize the promise he made me concerning you; but however, in that uncertainty, I am looking out for any chance borough; and if I can find one, I promise you I will bid like a chapman for it, as I should be very sorry that you were not in the next parliament.

"March 12, 1768. You will not be in this parliament, at least not at the beginning of it. I relied too much upon lord Chatham's promise above a year ago at Bath. He desired that I would leave it to him; that he would make it his own affair, and give it in charge to the duke of Grafton, whose province it was to make the parliamentary arrangement. This I depended upon, and I think with reason; but since that, lord Chatham has neither seen nor spoken to any body, and has been in the oddest way in the world. I sent to the duke of Grafton to know if lord Chatham had either spoken or sent to him about it; but he assured me that he had done neither: that all was full, or rather running over at present; but that, if he could crowd you in upon a vacancy, he would do it with great pleasure. I am extremely sorry for this accident; for I am of a very different opinion from you, about being in parliament, as no man can be of consequence in this country, who is not in it; and though one may not speak like a lord Mansfield or a lord Chatham, one may make a very good figure in a second rank. *Locus est et pluribus umbris.*" Lord Chesterfield to his Son.

* "All England was agitated by the tumults incident to a general election, but particularly London and Middlesex, on account of the re-appearance of John Wilkes: he quitted England under circumstances so disgraceful, that his offer to represent the metropolis, or the county which includes the metropolis, was an incalculable effort of impudence, while the support he received seems to have flowed from an unprecedented source of popular delusion.

"When Mr. Wilkes found it necessary to leave his native country, he repaired to France; on his arrival, he asserted that he was deputed ambassador to Constantinople, but he soon relinquished that pretence, and professed an inclination to reconcile himself with the ministry, and return to England. The appointment of the Rockingham administration flattering him with hopes of success, he repaired to London in May 1766, and opened a negociation with the friends of the Marquis; but as he could not obtain protection from them, nor place his outlawry in a train of reversal till November, he again went to France. In the course of that summer lord Chatham's administration was

FIRST SESSION
OF THE
THIRTEENTH PARLIAMENT
OF
GREAT BRITAIN.

Meeting of the New Parliament.]* May 10, 1768. This day the New Par-

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liament met at Westminster. It was opened by Commission. The Lord Chancellor commanded the gentleman usher of the black rod to let the Commons know "The Lords Commissioners desire their immediate attendance in this House to hear the commission read."

Who being come; the Lord Chancellor said:

"My Lords, and Gentlemen of the House of Commons;

"By virtue of his Majesty's commission now read, and in obedience to his

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formed, and Mr. Wilkes conceiving new hopes, solicited, in earnest and abject terms, the duke of Grafton's interference with the King. This application being rejected, Mr. Wilkes, neglected and forgotten, remained an exile, till the approaching dissolution of parliament drew him to England.

"In his retirement he reflected with anger on his repeated mortifications, and his spirit was inflamed to that degree of virulence which made him brave every danger, and defy every appearance of decency, in declaring himself a candidate to represent the city of London. In his address to the livery, he claimed credit for his attachment to liberty, and presented his contests with government on the two questions respecting general warrants, and the seizure of papers, as titles to protection and encouragement. As the outlawry was still in full force, to prevent his being apprehended he wrote to the solicitor and deputy solicitor of the treasury, pledging his honour as a gentleman, that he would personally appear in the court of King's bench on the first day of the ensuing term.

"Mr. Wilkes was not chosen for London; but the populace, sympathizing in his disappointment, and anxious to show their zeal in his cause, took the horses from his carriage, and drew it through the city. He immediately presented himself a candidate for the county of Middlesex, and was returned by a large majority. His friends, the populace, on this occasion testified not only their joy, but their resentment, by breaking the windows of lord Bute's house, and of the Mansion house; the air resounded with the cry of 'Wilkes and Liberty,' and those who refused to join in it were beat and insulted.

"The new parliament met according to the return of the writs of summons, and sir John Cust was again chosen Speaker. The only business transacted was a continuation of the statutes respecting grain; and a motion that the proper crown officer might report to the House why the laws were not immediately put in force against John Wilkes, an outlaw, when he returned to England in February.

"Mr. Wilkes was at this period already in custody. He appeared in the court of King's bench, according to his promise, and in a long speech complained of all the transactions in his case, but left the discussion of points of law to his counsel. The attorney-general moved for his commitment; cause was shown against it, and a writ of error prayed. The judges censured both motions, as Mr. Wilkes was not properly before the court, and refused to commit, or admit him to bail. A writ of *capias utlagatum* was at length issued, and as no precedent could be found of a person in his circumstances being delivered to bail, he was ordered into custody. The populace, however, reversed the decree of the Court; they stopped the coach in which he was proceeding, took off the horses, and dragged him through the city to a public house in Spitalfields, where they kept him till eleven at night, when he made his escape, and surrendered himself to the marshal of the King's-bench. The next day a mob assembled near the prison, pulled up the rails which inclosed the foot-way, and made a bonfire. At night they compelled the inhabitants of the Borough to illuminate; but at midnight were dispersed by a detachment from the guards.

"From this period, a tumultuous meeting was daily held at the King's-bench prison, and many outrages were committed in various parts of the town. These proceedings alarmed government, and they were properly on their guard against the prevalence of the riotous disposition so forcibly displayed.

"On the day of the opening of parliament, an immense multitude assembled in St. George's Fields, expecting that, by virtue of his privilege, their favourite would be liberated, and take his seat in the House. They demanded him at the prison with loud outcries, and soon grew extremely tumultuous. The justices, attempting to read the Riot Act, were assailed with stones and bricks; great pains were taken to induce the people to disperse, but in vain: the drums beat to arms, and the military assembled in great numbers, but the rabble persevered in their riotous behaviour, and even assaulted them. Some soldiers pursued a man who had been forward in maltreating them to some distance, and shot him dead in an out-house belonging to his father. The youth's name was Allen, and it was alleged, that he was a mere spectator of the transactions of the day, and had, by mistake, been singled out instead of some other person. Meanwhile, the riot increasing, and every effort to restore tranquillity proving ineffectual, the soldiers received the word of command, and fired; five or six persons were killed, and fifteen wounded.

"The mob was dispersed, but inexpressible rage prevailed against the soldiery. The regiment happened, unfortunately, to be principally composed of Scotchmen, which gave additional violence to the popular resentment. The coroner's inquest brought in a verdict of wilful murder against the soldier who shot Allen, and implicated another private, and

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commands, we let you know, That his Majesty doth not think fit that we should declare the causes of your present meeting until there be a Speaker of the House of Commons; and therefore it is his Majesty's pleasure, that you, gentlemen of the House of Commons, do immediately repair to the place where the Commons usually sit, and there chuse a fit person to be your Speaker, and that you present the person who shall be so chosen to his Majesty's commissioners here, for his royal approbation by the said commissioners to-morrow at twelve of the clock at noon."

Then the Commons withdrew;

Alex. Murray, esq. the commanding officer, as accessaries. The principal, Donald Maclean, was conveyed to prison, and the populace were with difficulty restrained from tearing him to pieces. The King, with great propriety, protected and sanctioned the proceedings which gave a timely check to this daring spirit of licentiousness, and returned thanks to the commanding officer for his prudence and resolution.

"Nothing could exceed the frenzy of indignation which prevailed in the public mind; riots of the most dangerous nature were daily excited. Harley, the lord mayor, being already obnoxious to Wilkes's party, for his conduct while sheriff, in burning the North Briton, the Mansion house was frequently assailed by mobs, and at length it was found requisite that a guard should be constantly stationed there. A most audacious and treasonable paper was stuck on the walls of St. James's palace, and another of similar purport found on the back stairs. All was terror, confusion, and alarm." Adolphus.

"On the day on which the parliament met, great numbers of persons assembled in St. George's Fields, expecting to see Mr. Wilkes go from prison to the House of Commons. The mob becoming very outrageous, the Surry magistrates, when unable to preserve the public peace, were obliged to read the Riot Act, and call in the military to assist the civil power. Instead of separating, the populace insulted and attacked the soldiers: the legal time for dispersion being elapsed, force was found absolutely necessary; the soldiers were ordered to fire; and, as in a mob it is impossible to distinguish active outrage from idle curiosity, a man who had not been riotous was unfortunately killed: this was Allen, who, though humble and obscure in life, was from his death consecrated to perpetual remembrance by the pen of elegant invective, poignant acrimony, and impressive misrepresentation [See Junius, passim.]: several others also were unavoidably killed. On the 17th of May, a proclamation was issued, by order of the council, for suppressing tumults and unlawful assemblies. Both Houses of parliament thanked his Majesty for this measure, and united in expressing their approbation of the magistrates who had been active in quelling the disturbances: and lord Weymouth wrote a letter, by his Majesty's command, to the justices for Surry, which testified the utmost satisfaction with the conduct both of the magistrates and the troops in suppressing lawless disturbances. Samuel Gillam, esq. one of the justices, was tried on a charge of having murdered William Redburn, by having ordered the soldiers to fire; in consequence of which, Redburn had been killed. The jury, seeing the absurdity and the injustice of such a prosecution, would not suffer the accused to take the trouble of entering upon his defence; but, when the prosecutor's evidence was closed, pronounced a verdict of acquittal. Donald Maclean, a soldier, was tried for the murder of Allen; but being proved to have acted only in discharge of his duty, he was acquitted. The mob was very much displeased with this sentence; and, as Maclean was either known, or from his name presumed to be, a Scotch highlander (and consequently the countryman of lord Bute), the clamour was the more loud and outrageous. Mr. Wilkes applied to the court of King's-bench for a reversal of his outlawry, as irregular and illegal; and, after many learned arguments on both sides, the judges unanimously delivered their opinion, that the sentence was illegal, and must be reversed." Bisset.

List of the House of Commons.] The following is a List of the Members of the House of Commons:

A List of the House of Commons in the Thirteenth Parliament of Great Britain, which met at Westminster, May 10, 1768.

Bedfordshire. John earl of Upper Ossory.--Robert Henley Ongley.

Bedford. Richard Vernon.----Samuel Whitbread.

Berkshire. Arthur Vansittart.--Thomas Craven; brother to lord Craven, and a rear-admiral of the blue squadron of his majesty's fleet; died, a new writ ordered, December 21, 1772.--John Elwes.

Windsor. Augustus Keppel; made a groom of his majesty's bedchamber, in 1762 made a rear-admiral of the blue squadron of his majesty's fleet. Made a commissioner of the admiralty, a new writ ordered, December 1765, he was re-chosen.---Lord George Beauclerk; uncle to the duke of St. Albans, colonel of a regiment of foot, governor of Landguard-fort, and a lieutenant general; died, a new writ ordered, May 13,

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1768.--Richard Tonson; died, and the Speaker issued his warrant to the clerk of the crown to make out a new writ, October 1772.--John Montagu; only son of lord Beaulieu.

Reading. Henry Vansittart; appointed one of the supreme council and superintendants of the East India Company's affairs in India--supposed to have perished in his passage to India, on board of his majesty's ship Aurora: no writ ordered (although frequently moved for), as no certain accounts had been received of his death.--John Dodd.

Wallingford. John Aubrey; eldest son of sir Thomas Aubrey, bart.--Robert Pigot; brother to lord Pigot, and lieutenant colonel of the 28th regiment of foot, and governor of St. Mawe's castle. Made warden of the Mint, a new writ ordered, January 21, 1772.----John Cator.

Abingdon. John Moreton; found to be not duly elected, February 8, 1770; in this parliament afterwards for New Romney.---Nathaniel Bayley; found duly elected, and ought to have been returned, February 8, 1770.

BUCKINGHAMSHIRE. Ralph earl Verney; of Ireland.--Richard Lowndes.

Buckingham. George Grenville; died, a new writ ordered, November 16, 1770. --James Grenville jun.; eldest son to the right honourable James Grenville.--Henry Grenville; third brother to earl Temple.

Chipping Wycombe. Isaac Barré; made one of the vice-treasurers of Ireland, and sworn of the privy council; a new writ ordered, November 11, 1766, he was re-elected.--Robert Waller.

Aylesbury. Anthony Bacon.--John Durand.

Agmondesham. William Drake, sen.--William Drake, jun.; eldest son of the other member.

Wendover. Sir Robert Darling; died, and the Speaker gave notice in the London Gazette, of the of August 1770, that at the end of fourteen days from that date, he would issue his warrant to the clerk of the crown for a new writ.--Joseph Bullock.--Edmund Burke.

Great Marlow. William Clayton.--William Dickinson.

CAMBRIDGESHIRE. John marquis of Granby; died, a new writ ordered, November 13, 1770.--Sir Sampson Gideon.--Sir John Hinde Cotton.

Univ. of Cambridge. Tho. Townshend.--Charles Yorke; second son to the late earl of Hardwicke; made lord high chancellor of Great Britain, and created lord Morden of Morden in Cambridgeshire; a new writ ordered, January 25, 1770; dying before the seals were affixed to his patent, the peerage did not take place.--William De Grey; before in this parliament for Newport, Cornwall; attorney-general to his majesty; comptroller of the revenue of first fruits and tenths; made lord chief justice of the Common Pleas, afterwards created lord Walsingham, baron Walsingham in the county of Norfolk; a new writ ordered, January 28, 1771.--Richard Croftes.

Town of Cambridge. Soame Jenyns.--C. Sloan Cadogan; made master and worker of the Mint; a new writ ordered, May 9, 1769, he was re-elected.

CHESHIRE. John Crewe.--Samuel Egerton.

Chester. Thomas Grosvenor.---R. Wilbraham Bootle.

CORNWALL. Sir John St. Aubin; died, a new writ ordered, November 26, 1772.--H. Mackworth Praed.--Sir John Molesworth.

Launceston. William Amherst; brother to sir Jeffery Amherst, K. B.; has a company in the foot guards; aide-du-camp to the king, and groom of the bedchamber to the duke of Gloucester. --H. Morrice.

Leskard. Edward Elliot; receiver-general of the duchy of Cornwall, and a commissioner of trade and plantations. --Samuel Salt.

Lestwithiel. Henry Cavendish.--Charles Brett; paymaster of the navy.

Truro. George Boscawen.--Edward H. Boscawen; died, and the Speaker issued his warrant for a new writ, July 1774.--Alexander Leith.

Bodmyn. James Laroche.--George Hunt.

Helston. William Evelyn; made colonel of a regiment of foot in November 1769, and a major-general in April 1770.--James earl of Clanbrassil; of Ireland; chief remembrancer of the Exchequer in that kingdom.

Saltash. Martin B. Hawke; eldest son of sir Edward Hawke, K. B. now lord Hawke.--Thomas Bradshaw; joint secretary to the treasury; made a commissioner of the admiralty; a new writ ordered, May 1, 1772.--John Williams; found not duly elected.--Thomas Bradshaw; duly elected, and ought to have been returned.

Camelford. Charles Phillips.---William Wilson.

Westlooe. William Graves; master in chancery.--James Townshend; an alderman of London.

Grampound. Grey Cooper; joint secre-

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tary to the treasury, and king's counsel in the duchy court of Lancaster.---Charles W. Cornwall; made a commissioner of the treasury; a new writ ordered, March 12, 1774, he was re-elected.

Eastlooe. John Buller.--Richard Hussey; attorney-general to the queen; counsel to the admiralty and navy, and auditor-general to the duchy of Cornwall and Greenwich hospital; died, and the Speaker issued out his warrant to the clerk of the crown for a new writ, September 1770.--Richard Leigh; one of his majesty's serjeants at law; died, a new writ ordered, March 30, 1772.--John Purling.

Penryn. Francis Basset; died, a new writ ordered, January 10, 1770.--William Lemon; made steward of the manor of East Hendred in the county of Berks; a new writ ordered, December 14, 1772. He stood candidate for the county of Cornwall, but losing the election, he was re-chosen for this place; created a baronet May 3, 1774. Hugh Pigot; brother to lord Pigot, I. P.; a captain in the navy, and colonel of marines.

Tregony. Thomas Pownall.--John Grey; uncle to the earl of Stamford; a clerk of the board of green cloth.

Bossiney. John lord viscount Mountstuart.--Henry Lawes Luttrell; lieutenant-colonel of horse; made steward of the three Chiltern Hundreds; a new writ ordered, April 11, 1761: he stood candidate for the county of Middlesex, and was voted duly elected by the House of Commons.--Sir George Osborne; in this parliament before for Northampton; has a company in the foot guards; made a groom of his majesty's bedchamber; a new writ ordered, May 16, 1770, he was re-elected.

St. Ives. Thomas Durant.--Adam Drummond.

Fowey. Philip Rashleigh.--J. Modyford Heywood.

St. Germains. Edward Eliot. Samuel Salt; made each of them their election for Leskard; a new writ ordered, November 29, 1768.---Benjamin L'Anglois; secretary of legation at the court of Vienna.--George Jennings.

St. Michael's. James Scawen.---John Stephenson.

Newport. William de Grey; made steward of three Chiltern Hundreds in the county of Buckingham; a new writ ordered, February 5, 1770; he was chosen for Cambridge university.---Rich. H. A. Bennet.--Richard Bull.

St. Mawes. Edm. Nugent; only son to lord viscount Clare; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, January 10, 1770.--Michael Byrne; died, a new writ ordered, November 26, 1772.--James Edward Colleton, esq.--George Boscawen; son of the hon. George Boscawen, and nephew to viscount Falmouth.

Callington. Thomas Worsley; surveyor-general to the board of works.--Jane William Sharpe; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, November 6, 1771.--William Skryne.

CUMBERLAND. Henry Curwen.---Sir James Lowther; found by the House not duly elected, December 13, 1768; in this parliament afterwards for Cockermouth. --Henry Fletcher; found by the House to be duly elected, and ought to have been returned, December 13, 1768; a director of the East India company.

Carlisle. Lord E. C. C. Bentinck; brother to the duke of Portland.--George Musgrave.

Cockermouth. Sir George Macartney; made steward of the three Chiltern Hundreds in the county of Bucks; a new writ ordered, March 15, 1769.--Sir James Lowther.--Charles Jenkinson; made his election for Appleby; a new writ ordered, May 17, 1768.--George Johnstone; a captain in the navy.

DERBYSHIRE. Lord George Cavendish.--Godfrey Bagnal Clarke.

Derby. Lord Fred. Cavendish.--William Fitzherbert; died, a new writ ordered, January 21, 1772.--Wenman Coke.

DEVONSHIRE. John Parker.--Sir R. W. Bampfylde.

Exeter. John Buller.--John Rolle Walter.

Totness. Peter Burrell; a director of Greenwich hospital; made surveyor-general of the crown lands; a new writ ordered, May 1, 1769, he was re-elected.---Philip Jennings; took the name of Clerke this parliament.

Plymouth. Will. W. viscount Barrington.--Francis Holburne; admiral of the blue; made a commissioner of the admiralty; a new writ ordered, February 21, 1770, he was re-elected; made master of Greenwich hospital, July 15, 1771; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, July 31, 1771.--Sir Charles Hardy; admiral of the blue, and master of Greenwich hospital.

Oakhampton. Thomas Pitt.---Thomas Brand; died, and the Speaker issued his warrant to the clerk of the crown

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for a new writ, Sept. 1770.--Richard Fitzpatrick; brother to the earl of Upper Ossory; a lieutenant in the foot guards.

Barnstaple. Denys Rolle.--John Cleveland.

Plympton Earle. Paul Henry Ourry.--William Baker.

Honiton. Brass Crosby.---Sir George Yonge.

Tavistock. Richard Rigby; made one of the vice-treasurers of Ireland; a new writ ordered, January 20, 1768, he was re-elected; made paymaster-general of the land forces, &c. in Great Britain; a new writ ordered, May 21, 1768, he was re-elected.--Richard N. Aldworth.

Ashburton. Lawrence Sullivan; chairman of the East India company.---Charles Boone.

Dartmouth. Richard viscount Howe; made a rear-admiral of the blue.---Richard Hopkins.

Beeralston. Sir Francis H. Drake; made master of his majesty's household, a new writ ordered, December 22, 1770.--Francis W. Drake; a captain in the navy, and brother to the late member.--George Hobart.

Tiverton. Nathaniel Ryder.-----John Duntz; created a baronet, October 29, 1774.

DORSETSHIRE. George Pitt; a groom of his majesty's bedchamber, and ambassador at the court of Turin; created lord Rivers of Stratfieldsea in the county of Southampton, May 14, 1778.--Humphry Sturt.

Poole. Thomas Calcraft.--Joshua Mauger; found not to be duly elected; a new writ ordered, February 10, 1769.--Joshua Mauger.

Dorchester. John Damer.----William Ewer.

Lyme Regis. Henry Fane.- John lord Burghersh; succeeded his father in the peerage, a new writ ordered, January 21, 1772.--Henry Fane; brother to the earl of Westmoreland; made keeper of the private roads to his majesty; a new writ ordered, June 9, 1772, he was re-elected.

Weymouth and Melcombe Regis. D. Billers, lord Waltham; of Ireland.--Jeremiah Dyson; made a commissioner of the treasury; a new writ ordered, December 21, 1768, he was re-elected; appointed cofferer of the household; a new writ ordered, March 10, 1774, he was re-elected.--Sir Charles Davers.--John Tucker.

Bridport. Sambrooke Freeman.--Thomas Coventry.

Shaftesbury. Ralph Payne; made K. B.; appointed captain-general and governor of the Leeward Islands; a new writ ordered, May 8, 1771.--Francis Sykes.--William Chaffin Grove.

Wareham. Ralph Burton; colonel of a regiment of foot, and a major-general; died, a new writ ordered, November 10, 1768.--Whitshed Keene; appointed a commissioner of trade and plantations; a new writ ordered, January 1774, he was chosen for Ludgershall.--Thomas de Grey; only son of lord chief justice de Grey.--Robert Palk.

Corfe Castle. John Jenkinson; gentleman usher daily waiter to the queen; made gentleman usher of the private chamber to the queen.--John Bond.

DURHAM. Frederick Vane.--Sir Thomas Clavering.

Durham. John Tempest.--John Lambton; made a lieutenant-general.

ESSEX. Sir W. Maynard; died, a new writ ordered, January 21, 1772.--John Conyers.--John Luther.

Colchester. Charles Gray.--Isaac Martin Rebow.

Malden. John Huske; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, 1773.--Charles Rainsford; has a company in the foot guards, and aide-du-camp to the king.--John Bullock.

Harwich. Edward Harvey; adjutant-general to the land forces in Great Britain; colonel of a regiment of horse, and a major-general.--John Roberts; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, July 1772.--Charles Jenkinson; a comissioner of the treasury; before in this parliament for Appleby; appointed one of the vice-treasurers of Ireland; a new writ ordered, January 23, 1772, he was re-elected.

GLOUCESTERSHIRE. Edward Southwell.--Thomas Tracy; died, and the Speaker issued his warrant for a new writ to the clerk of the crown, July 1770.---Sir William Guise.

Gloucester. George A. Selwyn.--Charles Barrow.

Cirencester. James Whitshed.--Estcourt Cresswell.

Tewkesbury. Sir W. Codrington.--Nicholson Calvert.

HEREFORDSHIRE. Thomas Foley, jun.--Thomas Foley, sen.

Hereford. Richard Symons; created a baronet, May 3, 1774.--John Scudamore.

Leominster. John Carnac.---John lord

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viscount Bateman; of Ireland; lord lieutenant and custos rotulorum of the county of Hereford; a privy counsellor, and master of the buck hounds.

Weobly. Simon Luttrell; created lord Irnham of Luttrellstown, in the kingdom of Ireland, soon after the dissolution of this parliament.---Henry F. Thynne; master of his majesty's household; appointed one of the postmasters-general, a new writ ordered, December 9, 1770.--Bamber Gascoyne; made a commissioner of trade and plantations; a new writ ordered, February 5, 1772, he was re elected.

HERTFORDSHIRE. William Plumer.--Thomas Halsey.

St. Albans. Richard Sutton; under secretary to the earl of Shelburne, one of his majesty's principal secretaries of state, and counsel to the board of ordnance; created a baronet, September 25, 1772.--John Radcliffe.

Hertford. John Calvert.--William Cowper; died, a new writ ordered, January 10, 1770.--Paul Feilde; one of the judges in the sheriffs of London's court.

HUNTINGDONSHIRE. Peter earl Ludlow; of Ireland.--John lord viscount Hinchingbroke; eldest son of the earl of Sandwich; appointed vice-chamberlain to his majesty; a new writ ordered, February 6. 1771, he was re-elected.

Huntingdon. Henry Seymour; a groom of the bedchamber to his majesty.--Robert Jones; died, a new writ ordered, February 5, 1774.--Wm. A. Montagu; second son of the earl of Sandwich.

KENT. Sir Brook Bridges.--John Frederick Sackville; son to lord John Philip Sackville; succeeded his uncle as duke of Dorset; a new writ ordered, January 31, 1769.--Sir Charles Farnaby.

Canterbury. Richard Milles.---William Lynch; made K. B. and appointed minister to the court of Turin.

Rochester. John Calcraft; died during the recess between the 5th and 6th sessions of parliament, and the Speaker issued his warrant for a new writ to the clerk of the crown, 1772.--George F. Hatton; nephew to the earl of Winchelsea.--William Gordon; made steward of the Chiltern Hundreds; a new writ ordered, March 4, 1771.--Thomas Pye; vice-admiral of the red.

Maidstone. Charles Marsham; eldest son of lord Romney.--Robert Gregory; a director of the East India company.

Queenborough. Sir Piercy Brett.---Sir Charles Frederick.

LANCASHIRE. J. Smith, lord Strange; died, a new writ ordered, June 1771.--Richard, lord viscount Molyneux; of Ireland; created earl of Sefton of the same kingdom, November 16, 1771.--Lord Arch. Hamilton; uncle to the duke of Hamilton; made steward of the manor of East Hendred in the county of Berks; a new writ ordered, January 21, 1772.--Sir Thomas Egerton.

Preston. Sir Peter Leicester. Sir Frank Standish; found not duly elected, November 29, 1768.---John Burgoyne; colonel of a regiment of dragoons, and governor of Fort William. Made a major-general, May 25, 1802.---Sir Henry Hoghton; found duly elected, and ought to have been returned.

Lancaster. Francis Reynolds; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, August 1770.--Lord Richard Cavendish; next brother to the duke of Devonshire.--Sir George Warren.

Newton. Peter Legh.--Anthony J. Keck.

Wigan. George Byng.--Beaumont Hotham; son to sir Beaumont Hotham, baronet.

Clithero. Nathaniel Lister; made steward of the manor of East Hendred, in the county of Berks; a new writ ordered, April 5, 1773.--Thomas Lister.--Asheton Curzon.

Liverpool. Richard Pennant.--Sir Wm. Meredith; appointed comptroller of the household, and sworn a member of the privy council; a new writ ordered, March 1774, he was re-elected.

LEICESTERSHIRE. Sir John Palmer.--Sir Thomas Cave.

Leicester. Booth Grey; brother to the earl of Stamford.--Eyre Coote; colonel of a regiment of foot; made a K. B.

LINCOLNSHIRE. Lord Brownlow Bertie.--Thomas Whichcot.

Lincoln. Thomas Scroope.--Const. John Phipps; eldest son to lord Mulgrave of the kingdom of Ireland; a captain in the navy.

Boston. Lord Robert Bertie; made governor of Duncannon-fort in Ireland.--Charles Amcotts.

Great Grimsby. Anthony St. Leger; a lieutenant-colonel on half-pay; made colonel of a regiment of foot, and a major-general.--Joseph Mellish.

Stamford. George Aufrere.----George Howard; colonel of a regiment of dragoons; governor of Chelsea hospital, and a lieutenant-general; made a K. B. and a general of his majesty's forces, August 27, 1777.

Grantham. Lord George Sutton.---Sir John Cust; chosen Speaker to this parliament; on account of bad health he

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resigned that dignity a short time before his death; died, a new writ ordered, January 25, 1770.--Francis Cockayne Cust; counsel to the admiralty and navy.

MIDDLESEX. John Wilkes; an alderman of the city of London; declared by the House incapable of being elected, a new writ ordered, February 3, 1769, he was again elected.--John Wilkes; his election declared void, a new writ ordered, February 17, 1769, he was again elected.--John Wilkes; his election declared void, a new writ ordered, March 17, 1769, he was again elected.---John Wilkes; the House resolved, April 14, 1769, that the poll taken for John Wilkes, esq. was null and void: resolved, April 15, 1769, that Henry Lawes Luttrell, esq. ought to have been returned, and that the said Henry Lawes Luttrell, esq. is duly elected.--Henry L. Luttrell; eldest son to lord Irnham of the kingdom of Ireland; a lieutenant-colonel of horse.--George Cook; died, a new writ ordered, November 22, 1771.--John Glynn; a serjeant at law, and recorder of the city of London.

Westminster. Edwin Sandys; succeeded his father as lord Sandys; a new writ ordered, April 24, 1770.--Sir Robert Bernard.--Hugh earl Percy; eldest son to the duke of Northumberland; colonel of a regiment of foot; made a major-general.

London. Thomas Harley.--Barlow Trecothick; an alderman of London; elected lord mayor on the death of Mr. Beckford in 1770.--Richard Oliver; an alderman of London.--Sir Robert Ladbroke; died, and the Speaker gave notice in the London Gazette of November 13, 1773, that he would at the end of fourteen days from that date, issue his warrant to the clerk of the crown to make out a new writ.--William Beckford; a second time lord mayor in 1770, he died during his mayoralty; the Speaker gave notice in the London Gazette of July 10, 1770, that he would at the end of fourteen days from that date, issue his warrant to the clerk of the crown to make out a new writ.--Frederick Bull; an alderman of London.

MONMOUTHSHIRE. Thomas Morgan; lord lieutenant and custos rotulorum for the counties of Monmouth and Brecon; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, June 28, 1771.--John Morgan.--John Hanbury.

Monmouth. John Stepney; eldest son of sir John Stepney, to whose estate and title he succeeded; made envoy extraordinary to the elector of Saxony in 1775.

NORFOLK. Thomas de Grey.---Sir Edward Astley.

Norwich. Harbord Harbord; succeeded his father as baronet.--Edward Bacon.

Lynn Regis. Sir John Turner.--Thomas Walpole; brother to lord Walpole; a merchant in London.

Yarmouth. Richard Walpole; next brother to lord Walpole; a merchant in London.--Charles Townshend; made a commissioner of the treasury; a new writ ordered, February 5, 1770, he was re-elected.

Thetford. John Drummond; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, August 1774.--Charles lord viscount Petersham; eldest son of the earl of Harrington; a captain in the army, now earl of Harrington.--Henry S. Conway.

Castle-Rising. Jenison Shaftoe; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, 1771.--Crisp Molineux.---Thomas Whateley; one of the under secretaries to the earl of Suffolk, one of his majesty's principal secretaries of state; made a commissioner of trade and plantations; a new writ ordered, January 25, 1770, he was re-elected; made keeper of his majesty's private roads, gates and bridges, and conductor or guide of his royal person in all the royal progresses; a new writ ordered, January 21, 1772, he was re-elected; died, a new writ ordered, June 3, 1772.--Heneage lord Guernsey; eldest son of the earl of Aylesford.

NORTHAMPTONSHIRE. Sir Edmund Isham; died, a new writ ordered, December 21, 1772.--Lucy Knightley.--Sir William Dolben.

Peterborough. Matthew Wyldbore.--Sir Matthew Lamb; died, a new writ ordered, November 22, 1768.---Henry lord Bellasyse; only son of earl Fauconberg, to whose title he succeeded; a new writ ordered, February, 1774.--Richard Benyon.

Northampton. Sir George Osborne; nephew to the earl of Halifax; an officer in the army; found to be not duly elected, February 14, 1769; in this parliament afterwards for Bossiney.--Thomas Howe; brother to lord viscount Howe of the kingdom of Ireland; duly elected, and ought to have been returned; died, and the Speaker issued his warrant for a new writ to the clerk of the crown, November 30, 1771.--Wilbr. Tollemache; next brother to the earl of Dysart.--Sir George B. Rodney; duly elected; vice-admiral of the red, and rear-admiral of Great Britain.

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Brackley. William Egerton; major to the 2d troop of horse guards; yeoman clerk of the jewel office, and brother to the bishop of Coventry and Litchfield.---Robert Wood; under secretary to lord viscount Weymouth, one of his majesty's principal secretaries of state, and master of the revels in Ireland; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, September 28, 1771.---Timothy Caswell; deputy paymaster-general of the land forces.

Higham-Ferrers. Frederick Montagu.

NORTHUMBERLAND. George Delaval.--Sir Edward Blacket.

Newcastle upon Tyne. Sir Walter Blacket.--Matthew Ridley.

Morpeth. Peter Beckford.--Sir Matt. W. Ridley.

Berwick upon Tweed. Robert Paris Taylor.--Sir John H. Delaval.

NOTTINGHAMSHIRE. Thomas Willoughby; only brother to lord Middleton.--John Hewet.

Nottingham. William Howe; made colonel of a regiment of foot, and a major-general.--John Plumtree.

East Retford. John Offley.--Sir Cecil Wray.

Newark. John Manners.--John Shelley; treasurer of the household; keeper of the records in the Tower, and clerk of the pipe.

OXFORDSHIRE. Philip lord viscount Wenman.--Lord Charles Spencer; of Ireland.

Oxford University. Sir Roger Newdigate.--Francis Page.

Oxford. William Harcourt; second son of earl Harcourt; a groom of his majesty's bedchamber, and a lieutenant-colonel of dragoons.---George Nares; made a judge in the court of Common Pleas; a new writ ordered, January 25, 1771.--Lord Robert Spencer; second brother of the duke of Marlborough; a commissioner of trade and plantations; in the former part of this parliament for Woodstock.

Woodstock. Lord Robert Spencer; second brother to the duke of Marlborough; made a commissioner of trade and plantations; a new writ ordered, April 24, 1770, he was re-elected; made steward of the manor of East Hendred in the county of Berks; a new writ ordered, January 25, 1771, he was elected for the city of Oxford.---John Skynner; attorney-general of the duchy court of Lancaster; made a Welsh judge; a new writ ordered, April 3, 1772, he was re-elected.--William Gordon.

Banbury. Frederick lord North; made first lord commissioner of the treasury, and continued chancellor and under treasurer of the Exchequer; a new writ ordered, February 1770, he was re-elected.

RUTLANDSHIRE. George B. Brudenell; one of the clerks comptrollers of the board of green cloth.--Thomas Noel.

SALOP. Sir John Astley; died, a new writ ordered, February 5, 1772.--Sir Wat. W. Wynne.--Charles Baldwin.

Shrewsbury. Robert lord Clive; a major-general in the East Indies; created lord Clive, baron of Plassey in the kingdom of Ireland, March 15, 1762; made a knight of the bath in .--Noel Hill; son of the late member.

Bridgenorth. William Whitmore; died, and the Speaker issued his warrant to the clerk of the crown to make out a new writ, August 1771.--Thomas Whitmore; nephew of the deceased member.--George lord Pigot; of the kingdom of Ireland.

Ludlow. Edward Herbert; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, 1770. --Thomas Herbert; son of the deceased member.--William Fellows.

Great Wenlock. George Forester.--Sir Henry Bridgman.

Bishop's Castle. George Clive.--William Clive; a cornet of dragoons; made steward of the manor of East Hendred in the county of Berks; a new writ ordered, January 10, 1770.--Alexander Wedderburn; in this parliament before for Richmond; made solicitor-general to his majesty; a new writ ordered, January 25, 1771, he was re-elected.

SOMERSETHIRE. Sir Charles K. Tynte.--Rich. Hippesley Cox.

Bristol. Robert viscount Clare; made one of the vice-treasurers of Ireland; a new writ ordered, June 21, 1768, he was re-elected.--Matthew Brickdale.

Bath. Sir John S. Sebright.--John Smith.

Wells. Robert Child; a banker in London.--Clement Tudway.

Taunton. Alexander Popham; a barrister at law.--Nathaniel Webb.

Bridgewater. J. James, viscount Perceval; not duly elected.--Anne Poulett; brother to earl Poulett, duly elected, and ought to have been returned.--Benjamin Allen.

Minehead. Henry F. Luttrell.----Sir Charles Whitworth; lieutenant-governor of Tilbury-fort, and chairman of the committees of ways and means.

Ilchester. Brownlow Cust.--Peter Legh.

Milborn Port. Edmund Walter.--Tho-

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mas H. Medlicott; made steward of the manor of East Hendred; a new writ ordered, May 19, 1770.--Robert earl of Catherlough; of the kingdom of Ireland; died, a new writ ordered, March 30, 1772.--Richard Combe; not duly elected.--George Prescott.

SOUTHAMPTON. Robert lord Henley, eldest son of the earl of Northington; a teller of the Exchequer; succeeded his father as earl of Northington; a new writ ordered, January 21, 1772.--Sir Paulet St. John.--Sir Simeon Stuart.

Winchester. George Powlett.---Henry Penton.

Southampton. Henry viscount Palmerston; a commissioner of the admiralty.--Hans Stanley; made governor of the Isle of Wight; a new writ ordered, May 16, 1770, he was re-elected.

Portsmouth. Sir M. Fetherstonhaugh; died, a new writ ordered, March 1774.--Peter Taylor.--Sir Edward Hawke; admiral of the white; rear-admiral of Great Britain, and an elder brother of the Trinity house; made first commissioner of the admiralty; a new writ ordered, December 3, 1766, he was re-elected.

Yarmouth. (I. W.) Jervoise Clarke. William Strode; not duly elected.--George L. Parker; brother to the earl of Macclesfield; a major in the foot guards, and a major-general in the army; duly elected, and ought to have been returned; made colonel of a regiment of foot in May 1773.--Thomas Dummer; duly elected, and ought to have been returned.

Petersfield. William Jolliffe; made a commissioner of trade and plantations; a new writ ordered, February 10, 1772, he was re-elected.----Welbore Ellis; made one of the vice-treasurers of Ireland; a new writ ordered, February 2, 1770, he was re-elected.

Newport. (I. W.) Hans Sloane.--John Eames; a master in chancery; made commissioner of taxes; a new writ ordered, May 1773.--John St. John; brother to viscount Bolingbroke.

Stockbridge. Richard Worge; a major-general; a colonel on half-pay; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, April 20, 1772.--James Hare.--Richard Fuller.

Newton. (I. W.) Sir John Barrington.--Harcourt Powell.

Christ-Church. Thomas Robinson; made vice-chamberlain to his majesty's household; a new writ ordered, February 21, 1770, he was re-elected; succeeded his father as lord Grantham; a new writ ordered, November 15, 1770.--James Harris, jun.--James Harris.

Lymington. Adam Drummond; brother-in-law to the duke of Bolton; made his election for St. Ives; a new writ ordered, February 10, 1769.--Hugo Meynell.--Harry Burrard; created a baronet of Great Britain, March 20, 1769; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, January 1779.

Whitchurch. Henry Wallop; brother to the earl of Portsmouth; a groom of his majesty's bedchamber.--T. Townshend.

Andover. Benjamin Lethuiellier.---Sir John Griffin Griffin.

STAFFORDSHIRE. G. Harry, lord Grey; succeeded his father as earl of Stamford; a new writ ordered, May 21, 1768.--John Wrottesley; eldest son of the reverend sir Richard Wrottesley, baronet, and nephew to earl Gower; a captain in the army; in this parliament before for Newcastle-under-Line; promoted to a company in the foot guards; succeeded his father as baronet.--Sir William Bagot.

Litchfield. Thomas Gilbert; comptroller of the king's wardrobe, and paymaster of the pensions to the widows of sea officers.--Thomas Anson; made steward of the manor of East Hendred in the county of Berks; a new writ ordered, January 24, 1770.---George Adams; nephew to Mr. Anson, changed his name to Anson.

Stafford. William viscount Chetwynd; died, a new writ ordered, April 3, 1770.--William Nev. Hart.--Richard Whitworth.

Newcastle-under-Line. John Wrottesley; eldest son of the reverend sir Richard Wrottesley, and nephew to earl Gower; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, November 22, 1768, he was elected for the county.--George Hay; dean of the arches, and judge of the prerogative court of Canterbury; made judge and president of the high court of admiralty; a new writ ordered, January 13, 1774, he was re-elected.---Alexander Forrester; a barrister at law.

Tamworth. William de Grey; made his election for Newport in the county of Cornwall; a new writ ordered, November 24, 1768.--Charles Vernon; lieutenant-governor of the Tower of London, and a major-general in the army.--Edward Thurlow; made solicitor-general to his majesty; a new writ ordered, March 28, 1770, he was re-

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elected; made attorney-general to his majesty; a new writ ordered, January 25, 1771, he was re-elected.

SUFFOLK. Sir John Rous; died, and the Speaker issued his warrant to the clerk of the crown to make out a new writ, 1771.--Rowland Holt.--Sir C. T. Bunbury.

Ipswich. Thomas Staunton.---William Wollaston.

Dunwich. Miles Barne.---Gerrard W. Van Neck.

Orford. Francis viscount Beauchamp; eldest son of the earl of Hertford; made one of the commissioners of the treasury; a new writ ordered, March 1774, he was re-elected.--Edward Colman; a captain of dragoons; made one of the gentleman ushers to his majesty; a new writ ordered May 8, 1771.--Robert S. Conway; third son to the earl of Hertford; a captain of dragoons.

Aldborough. Nicholas Linwood; died, a new writ ordered, May 3, 1773.--Thomas Fonnereau.--Zachary P. Fonnereau.

Sudbury. Patrick Blake; created a baronet of Great Britain, September 19, 1772.--Walden Hanmer; created a baronet of Great Britain, May 3, 1774.

Eye. W. Cornwallis; second brother to earl Cornwallis; a captain in the navy; made steward of the three Chiltern Hundreds; a new writ ordered, 1774.--Francis M. Carmarthen; eldest son of the duke of Leeds.--Joshua viscount Allen; has a company in the foot guards; made steward and bailiff of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, April 9, 1770.--Richard B. Phillipson; lieutenant-colonel of dragoons.

St. Edmund's-Bury. A. John Hervey; a captain in the navy; a colonel of marines, and one of the grooms of his majesty's bedchamber; made one of the commissioners of the admiralty; a new writ ordered, December 23, 1770, he was re-elected.--Charles Fitzroy; vice-chamberlain to the queen; made a major-general in May 1772, and a lieutenant-general in August 1777.

SURREY. George Onslow.---Sir Francis Vincent.

Southwark. Henry Thrale.--Sir Joseph Mawbey.

Blechingly. Sir Kenrick Clayton; died, a new writ ordered, March 22, 1769.--Frederick Standart; a merchant in London.--Robert Clayton; eldest son of the other member.

Ryegate. John Yorke; brother to the earl of Hardwicke; clerk of the crown in the court of Chancery, and patentee for making out commissions of bankruptcy.--Charles Cocks; made clerk of the deliveries of the ordnance; a new writ ordered, November 27, 1762; created a baronet of Great Britain, September 19, 1772.

Guilford. George Onslow.--Sir Fletcher Norton; made chief justice in eyre, south of Trent; a new writ ordered, February 4, 1769, he was re-elected. On the resignation of sir John Cust, baronet, he was chosen Speaker.

Gatton. John Damer; eldest son of lord Milton.--Joseph Martin.

Haslemere. William Burrell; made a commissioner of excise; a new writ ordered, May 1774.--Sir Merrick Burrell.--Thomas M. Molyneux.

SUSSEX. Thomas Pelham; succeeded the duke of Newcastle as baron Pelham of Stanmere; a new writ ordered, November 22, 1768.---Richard Harcourt.---Lord George H. Lenox.

Chichester. William Keppel.---Thomas Conolly; brother-in-law to the duke of Richmond, and a privy counsellor in Ireland.

Horsham. J. Grenville; second brother to earl Temple; one of the vice-treasurers of Ireland, and receiver of the crown and fee farm rents for the counties of Leicester and Warwick; made steward of the three Chiltern Hundreds; a new writ ordered, April 12, 1770.--James Wallace; one of his majesty's counsellors at law; attorney-general for the counties palatine of Lancaster and Durham.--Robert Pratt; a master in chancery.

Midhurst. Henry, lord Stavordale; eldest son of the earl of Ilchester; a captain in the army; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, May 19, 1770, he was re-elected.---Charles James Fox; second son of lord Holland; made a commissioner of the admiralty; a new writ ordered, February 21, 1770, he was re-elected; made one of the commissioners of the treasury; a new writ ordered, December 21, 1772, he was re-elected.

Lewes. Thomas Hampden; eldest son of lord Trevor.---Thomas Hay; lieutenant-colonel of dragoons.

Shoreham. Sir Samuel Cornish; died, a new writ ordered, November 20, 1770. --John Purling.--Thomas Rumbold.--Peregrine Cust.

Bramber. Edward earl Winterton. Chas. Lowndes; not duly elected.--Thomas Thoroton; duly elected, and ought to have been returned.--Charles Ambler;

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duly elected, and ought to have been returned; one of his majesty's counsellors at law, and solicitor-general to the queen.

Steyning. Thomas E. Freeman.---Sir John Filmer.

East Grinsted. Lord George Sackville; brother to the duke of Dorset; clerk of the council in Ireland, and one of the keepers of the Phœnix-park near Dublin; made one of his majesty's principal secretaries of state; a new writ ordered, November 1775, he was re-elected.---John Irwin; made a lieutenant-general in May 1772.

Arundel. Sir George Colebrooke.--Lachlan Macleane; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, May 8, 1771.--John Stewart.

WARWICKSHIRE. Sir Charles Mordaunt.--William T. Bromley; died, a new writ ordered, March 14, 1769.--Thomas G. Skipwith.

Coventry. Andrew Archer; succeeded his father as lord Archer; a new writ ordered, November 22, 1768.--Sir Rich. Glynn; a banker in London, and alderman of London, lord mayor in 1759; died, a new writ ordered, January 19, 1773.---Walter Waring.---Henry S. Conway.

Warwick. George lord Greville; eldest son to the earl of Warwick; made a commissioner of trade and plantations; a new writ ordered, April 12, 1770, he was re-elected; succeeded his father as earl of Warwick; a new writ ordered, July 8, 1773.---Charles F. Greville; next brother to the earl of Warwick.--Henry Archer; died, a new writ ordered, May 13, 1768.--Paul Methuen.

WESTMORELAND. John Robinson; appointed one of the secretaries to the treasury, February 6, 1770.--Thomas Fenwick.

Appleby. Charles Jenkinson; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, December 18, 1772, he was chosen for Harwich.---Fletcher Norton; third son of the Speaker; a barrister at law.--Philip Honywood.

WILTSHIRE. Thomas Goddard; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, 1770.---Charles Penruddock.--Edward Popham; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, 1772.--Ambrose Goddard.

New Sarum. Edward Bouverie; made steward of the manor of East Hendred in the county of Berks; a new writ ordered, May 8, 1771.---J. Pleydell, viscount Folkstone; eldest son of the earl of Radnor.--Stephen Fox; eldest son of lord Holland; succeeded his father as lord Holland, July 1, 1774, but no new writ issued.--Henry Dawkins; November 10, 1768, Mr. Dawkins having informed the House, that he did not mean to contest the double return, the clerk of the crown was ordered to erase his name out of the return, which he did accordingly.

Wilton. Henry Herbert; made steward of the manor of East Hendred in the county of Berks; a new writ ordered, 1772; he stood candidate for the county of Wilts, but not being returned for it, he was again re-elected.--Nicholas Herbert.

Downton. Thomas Duncombe.--Richard Croftes; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, January 31, 1771, he was chosen for Cambridge University.--James Hayes; a Welsh judge.

Hindon. J. St. Leger Douglas.--William Hussey.

Heytesbury. Charles F. Scudamore; deputy ranger of Whittlebury forest, and cursitor in the court of Chancery in Ireland.--W. A'Court Ashe.

Westbury. William Blackstone; one of the king's counsel at law, and solicitor-general to the queen; made a judge in the court of King's-bench; a new writ ordered, February 15, 1770.--Charles Dillon; eldest son of viscount Dillon.--Peregrine Bertie.

Calne. John Dunning; solicitor-general to his majesty; made recorder of the city of Bristol.--Thomas Fitzmaurice.

Devizes. James Sutton.--Charles Garth.

Chippenham. Sir Edward Bayn. Rolt.--Sir Thomas Fludyer; died, a new writ ordered, March 20, 1769.--Henry Dawkins.

Malmesbury. Arthur earl of Donegal; of Ireland.--Thomas Howard; uncle to the earl of Suffolk; a counsellor at law.

Cricklade. George Damer; second son of lord Milton.--Sir Robert Fletcher; a lieutenant-colonel in the service of the East India company.

Great Bedwin. James Brudenell; next brother to the duke of Montagu; master of the robes to his majesty; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, November 8, 1768, he was chosen for Marlborough.--William Northey; a groom of his majesty's bedchamber; made a commissioner of trade and plantations; a new writ or-

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dered, April 12, 1770, he was re-elected; died, a new writ ordered, December 22, 1770.--Benjamin Hopkins. --Robert Brudenell; second brother to the duke of Montagu; vice-chamberlain to the queen; colonel of a regiment of foot, and lieutenant-governor of Windsor forest; made his election for Marlborough; a new writ ordered, May 13, 1768.--William Burke.

Luggershall. Penystone Lamb; eldest son of sir Matthew Lamb, baronet, to whose title he succeeded in 1768; created baron Melbourne in Ireland in 1770.--John lord Garlies; eldest son of the earl of Galloway; made one of the lords of police in Scotland; a new writ ordered, May 21, 1768, he was re-elected; made a commissioner of trade and plantations; a new writ ordered, November 26, 1772, he was re-elected; succeeded his father as earl of Galloway; a new writ ordered, January 1774.--Whitshed Keene; brother-in-law to the earl of Dartmouth; a commissioner of trade and plantations, and secretary to the lord chamberlain of his majesty's household; in this parliament before for Wareham.

Old Sarum. W. G. Hamilton; chancellor of the Exchequer in Ireland.--John Craufurd; chamberlain of the county of Fife.

Wotton Basset. Thomas E. Creswell.--Henry St. John.

Marlborough. Sir James T. Long.--Robert Brudenell; made colonel of a regiment of foot; vice-chamberlain to the queen, and lieutenant-governor of Windsor Castle; died, a new writ ordered, November 11, 1768.--James Brudenell; next brother to the duke of Montagu; master of the robes to the king.

WORCESTERSHIRE. John Ward; succeeded his father as viscount Dudley and Ward; a new writ ordered, April 1774.--Edward Foley; second son of Thomas Foley, esq. member for the county of Hereford, who, on the 20th of May 1776, was created baron Foley of Kidderminster in the county of Worcester. --W. Dowdeswell; made chancellor and under treasurer of the Exchequer; a new writ ordered, December 17, 1765, he was re-elected.

Worcester. John Walsh.--Henry Crabb Boulton; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, 1773.--Thomas Bates Rous; not duly elected, a new writ ordered, February 8, 1774.--Nicholas Lechmere.

Droitwich. Robert Harley; died, and the Speaker issued his warrant for a new writ, 1774.--Andrew Foley; third son of Thomas Foley, esq.; a banker in London.---Thomas Foley; made his election for the county of Hereford; a new writ ordered, May 17, 1768.--Edward Foley; second son of Thomas Foley, esq. member for Hereford county, who on the 20th of May 1776, was created baron Foley of Kidderminster in the county of Worcester. --Rowland Berkeley.

Evesham. George Durant.--John Rushout.

Bewdley. Thomas Lyttelton; only son of lord Lyttelton, not duly elected.--Sir Edward Winnington; duly elected, and ought to have been returned.

YORKSHIRE. Edwin Lascelles.--Sir George Savile.

York. Lord John Cavendish; uncle to the duke of Devonshire.--Charles Turner.

Kingston-upon-Hull. Lord Robert Manners; made a general in the army in April 1772.--William Weddell.

Knaresborough. R. B. Walsingham.--Sir Anthony T. Abdy.

Scarborough. F. W. Osbaldeston; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, June 3, 1770.--Sir J. Penyman.--Ralph Bell; Ralph Bell, esq having informed the House that he did not mean to contest the double return, the clerk of the crown was ordered to attend with the writ, and erase Mr. Bell's name out of the return.---George Manners; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, 1772.--George earl of Tyrconnel; of Ireland.

Rippon. William Aislabie.--Charles Allanson.

Richmond. Sir Lawr. Dundas; made his election for the city of Edinburgh; a new writ ordered, November 10, 1768. ---William Norton; eldest son of sir Fletcher Norton, minister to the Swiss Cantons.--Alex. Wedderburn; a counsellor at law; made steward of the manor of East Hendred in the county of Berks; a new writ ordered, May 9, 1769, he was chosen afterwards for Bishop's Castle.--Charles Crowle.

Heydon. Sir Charles Saunders.--Beilby Thompson.

Borough-Bridge. James West, sen.; high steward of St. Albans, and recorder of Poole; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, 1772.--Henry Clinton; cousin to the duke of Newcastle; colonel of a regiment of foot; a major-general, and a groom of the bedchamber

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to the duke of Gloucester.--Nathaniel Cholmley.

Malton. John viscount Downe; of Ireland.--Savile Finch.

Thirske. Sir Thomas Frankland; vice-admiral of the red.--William Frankland.

Aldborough. Aubrey Beauclerk; only son of lord Vere.--Andrew Wilkinson; made steward of the manor of East Hendred in the county of Berks; a new writ ordered, May 11, 1772.---Henry earl of Lincoln; eldest son of the duke of Newcastle.

Beverley. Hugh Bethell; died, a new writ ordered, May 14, 1772.--Sir Griffith Boynton.----Charles Anderson; changed his name to Pelham this parparliament.

Northallerton. Edward Lascelles; cousin of Edwin and Daniel Lascelles; a lieutenant-colonel of dragoons.--Daniel Lascelles.

Pontefract. William viscount Galway. Sir Rowland Winn; not duly elected, a new writ ordered, November 24, 1768. --William viscount Galway; died, a new writ ordered, December 1, 1772.---Henry viscount Galway; eldest son of the deceased member; died 1774.---Robert Monckton; uncle to viscount Galway; colonel of a regiment of foot; governor of Portsmouth; lieutenant-governor of Nova Scotia, and a lieutenant-general.--Henry Strachey.

CINQUE PORTS.

Hastings. Samuel Martin; treasurer to the princess dowager of Wales.--William Ashburnham.

Dover. Sir J. Yorke.--George viscount Villiers; only son of the earl of Jersey; vice-chamberlain of his majesty's household; succeeded as earl of Jersey; a new writ ordered, January 10, 1770.--Sir Thomas P. Hales; died, a new writ ordered, March 23, 1773.--Thomas Barrett.

Sandwich. Philip Stephens; secretary to the admiralty, and to the charity for the benefit of sea-officers widows.---Henry viscount Conyngham.

Hythe. William Evelyn; son of William Glanville, esq. the late member.---John Sawbridge; chosen an alderman of the city of London in 1769.

New Romney. Sir Edward Deering; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, February 27, 1770.--John Moreton; chief justice of Chester; in the former part of this parliament for Abingdon.----Richard Jackson.

Rye. John Norris.--Rose Fuller.

Winchelsea. Thomas O. Hunter; died, a new writ ordered, January 10, 1770. --Arnold Nesbitt.--Percy, earl of Thomond; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, 1774.--William Nedham.

Seaford. W. Hall, viscount Gage.--George Medley.

WALES.

ANGLESEY. Owen Merrick; died, a new writ ordered, March 13, 1770.--Sir Nicholas Bayly.

Beaumaris. Sir Hugh Williams; a lieutenant-colonel in the army, and stepfather to viscount Bulkeley.

BRECONSHIRE. Thomas Morgan; died, a new writ ordered, April 20, 1769.--Charles Morgan; second son of the deceased member; in this parliament before for the town of Brecon.

Brecon. Charles Morgan.--John Morgan, second son of Thomas Morgan, esq. member for the county; made steward of the manor of East Hendred in the county of Berks; a new writ ordered, January 21, 1772, he was elected for the county of Monmouth.---Charles Van.

CARDIGANSHIRE. Wilmot, viscount Lisburne, of Ireland; lord lieutenant and custos rotulorum of this county; made a commissioner of trade and plantations; a new writ ordered, December 21, 1768, he was re-elected; made a commissioner of the admiralty; a new writ ordered, February 21, 1770, he was re-elected.

Cardigan. Pryce Campbell; made a commissioner of the treasury; a new writ ordered, November 12, 1766; died, a new writ ordered, December 19, 1768.--Ralph Congreve.

CARMARTHENSHIRE. George Rice; made treasurer of the chamber, and a privy counsellor; a new writ ordered, April 12, 1770, he was re-elected.

Carmarthen. Griffith Phillips.

CARNARVONSHIRE. Thomas Wynn.

Carnarvon. Glynn Wynn; second son of sir John Wynn, bart.; has a company in the foot guards.

DENBIGHSHIRE. Sir Lynch Salusbury Cotton.

Denbigh. Richard Myddelton.

FLINTSHIRE. Sir Roger Mostyn.

Flint. Sir John Glynne.

GLAMORGANSHIRE. George Venables Vernon; eldest son of lord Vernon.

Cardiff. Herbert Mackworth.

MERIONETHSHIRE. John Pugh Pryce; died, a

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new writ ordered, January 1774.--Evan Lloyd Vaughan.

MONTGOMERYSHIRE. Edward Kynaston; died, a new writ ordered, May 25, 1772.--Watkin Williams.

Montgomery. Richard Clive; died, and the Speaker issued his warrant to the clerk of the crown for a new writ, June 1771.--Thomas Cornewall; a captain in the navy.

PEMBROKESHIRE. Sir Richard Phillips; not duly elected, a new writ ordered, March 6, 1770.--Hugh Owen; eldest son of sir William Owen, bart.

Pembroke. Sir William Owen.

Haverford West. William Edwardes; created lord Kensington of Ireland, July 2, 1776.

RADNORSHIRE. Chase Price.

Radnor. John Lewis; not duly elected.---Edward Lewis; duly elected, and ought to have been returned.

SCOTLAND.

SHIRES OF

Aberdeen. Alexander Garden.

Ayr. David Kennedy; only brother to the earl of Cassilis; succedeed as earl of Cassilis in November 1773.

Argyle. Robert Campbell; made receiver-general and cashier of the customs in Scotland; a new writ ordered, January 21, 1772.---Adam Livingstone.

Banff. James earl Fife.

Berwick. James Pringle.

Bute and Caithness. Kenneth, viscount Fortrose; of Ireland; in 1771, he was created earl of Seaforth in Ireland.

Kinross and Clackmannan. Robert Adam; architect to the board of works, and clerk of the works to Chelsea hospital.

Cromartie and Nairn. William Pulteney; second son of sir James Johnstone, bart.

Dumfries. Archibald Douglas; made a lieutenant-general.

Dunbarton. Archibald Edmonstone; created a baronet of Great Britain, May, 3, 1774.

Edinburgh. Sir Alexander Gilmour.

Elgin. Francis Grant; brother to sir Ludovick Grant; colonel of a regiment of foot; made a major-general in 1770.

Fife. John Scot; colonel of a regiment of foot.

Forfar. William earl Panmure; in 1770 made a general, and colonel of the 2d or royal regiment of Scots Greys.

Haddington. Sir George Suttie.

Inverness. Simon Fraser; made a major-general in 1770.

Kincardine. Robert Rickart Hepburn; a lieutenant-colonel of dragoons.

Kirkcudbright. John Ross Mackye.

Lanark. Daniel Campbell.

Linlithgow. John Hope; eldest son of the late member; not duly elected.--James Dundas; duly elected, and ought to have been returned.

Orkney. Thomas Dundas; brother to sir Laurence Dundas, baronet; made a gentleman of the police in Scotland; a new writ ordered, December 21, 1770.--Thomas Dundas, jun.; son of the late member; a captain in the army; made a major in the army.

Peebles. James Montgomery; lord advocate for Scotland.

Perth. David Græme; made a lieutenant-general in 1772; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, May 6, 1773.--James Murray; brother to the duke of Athole; has a company in the guards, and governor of Upnor Castle; made colonel of a regiment in 1776.

Renfrew. William M'Dowall.

Ross. James Stuart Mackenzie.

Roxburgh. Sir Gilbert Elliot; made treasurer of the navy; a new writ ordered, March 8, 1770, he was re-elected.

Selkirk. John Pringle.

Stirling. Thomas Dundas; only son of sir Laurence Dundas, baronet.

Sutherland. James Wemyss; third son of the late earl of Wemyss; a lieutenant in the navy.

Wigton. James Murray.

Edinburgh City. Sir Lawrence Dundas.

BURGHS OF

Kirkwall, &c. Alexander Mackay; uncle to lord Reay; colonel of a regiment of foot; made a major-general in April 1770; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, March 26, 1773.--James Grant; governor of East Florida, and lieutenant-colonel of the 40th regiment of foot.

Inverness, &c. Hector Munro; lieutenant-colonel in the army.

Elgin, &c. Sir Andrew Mitchell; died, a new writ ordered, February 1771.--Thomas Lockhart; a counsellor at law.

Aberdeen, &c. Thomas Lyon; only brother to the earl of Strathmore.

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Forfar, &c. William Pulteney; made his election for the county of Cromarty; a new writ ordered, March 3, 1769.--George Dempster.

Crail, &c. Sir John Anstruther.

Kirkaldy, &c. James Townshend Oswald; only son of the late member; made secretary for the Leeward Islands; a new writ ordered, January 21, 1772, he was re-elected.

Inverkeithing, &c. James Masterton; made barrack-master-general in Scotland; a new writ ordered, May 9, 1769, he was re-elected.

Glasgow, &c. Lord Frederick Campbell; made lord clerk register for Scotland; a new writ ordered, November 10, 1768, he was re-elected.

Selkirk, &c. John Lockhart Ross; made his election for the county of Lanark; a new writ ordered, November 29, 1768. --James Dickson; a merchant in London; died, and the Speaker issued his warrant to the clerk of the crown to make out a new writ, November 1771. Sir James Cockburne; a director of the East India company.

Haddington, &c. Patrick Warrender; eldest son of sir John Warrender, bart.; a lieutenant-colonel of dragoons; made king's remembrancer in the court of Exchequer in Scotland; a new writ ordered, January 24, 1771, he was re-elected.--John Maitland; eighth brother to the earl of Lauderdale; a major of marines; he having informed the House that he did not mean to contest the matter of the double return, the clerk of the crown was ordered to attend, and erase out his name from the return.

Dumfries, &c. William Douglas.

Wigton, &c. George Augustus Selwyn; made his election for the city of Gloucester; a new writ ordered, November 22, 1768.---Chauncy Townsend; a merchant in London; died, a new writ ordered, April 6, 1770.-----William Stewart.

Ayr, &c. James Stuart; second son of the earl of Bute.

SIXTEEN PEERS OF SCOTLAND.

Duke of Gordon.
Earl of Argyle; died in 1770; (earl of Stair in his room.)
Athol,
Morton, died in 1769; (marquis of Lothian in his stead.)
Eglintoun; died in 1769, (earl of Errol in his stead.)
Strathmore,
Abercorn,
Loudoun,
Dunmore,
March and Ruglen,
Marchmont,
Roseberry,
Bute,
Viscount Stormont,
Irwin,
Lord Cathcart.

Sir John Cust re-chosen Speaker.] The Commons being returned to their House,*

Lord *Charles Spencer*, next brother to the duke of Marlborough, addressing himself to the Clerk (who, standing up, pointed to him, and then sat down), spake to the effect following:

Mr. Tyrwhitt,

It is our present business to proceed to the election of a proper person to preside as Speaker; a business of no small importance; for on this choice depend the regularity and dignity of our proceedings in the course of this parliament.

If ability, integrity, impartiality, a firm attachment to our happy constitution, a zeal for the rights and privileges, joined to a perfect knowledge of the rules and orders of this House, are qualifications requisite for a Speaker, in whom shall we more surely find them, than in the right hon. gentleman, who, during the last parliament, filled that Chair with so much honour to himself, and so much satisfaction to the House? Those who were members of that parliament, must feel that what I say falls short of his real deserts; those who were not, and consequently had not an opportunity of being so immediately acquainted with his merit, will very soon be sensible that my commendations are poor and insufficient, though built upon the truest ground.

It would shew great want of respect to the House, in me, who possess so little the talent of speaking, were I to detain them long upon a subject, in which I am persuaded the wishes of every body go hand in hand with mine; and therefore each person can form to himself better reasons for agreeing with me, than I am capable of offering.

This unanimous consent, which I felt myself sure to meet, is what has given me courage to take upon myself to make this motion, unaccustomed as I am to speak in public, conscious as I am of my inability

* From the Commons' Journals.

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either to afford the least entertainment, or convey the smallest instruction.

I will trouble the House no farther, than to beg of them to join with me in intreating that right hon. gentleman again to take upon him this laborious task. I do therefore move, That the right hon. sir John Cust be desired to take the Chair as Speaker.

Then the right hon. *Henry* lord viscount *Palmerston*, addressing himself likewise to the Clerk (who, standing up, pointed to him, and then sat down), spake to the following effect:

Mr. Tyrwhitt,

I rise to second the noble lord's motion, rather in compliance with the forms of the House, and from a desire to shew my hearty approbation of the proposition he has made, than because it seems to require any farther arguments to support it. Among the various objects which employ the attention of a new parliament, the choice of a proper person to fill the high office of Speaker must ever be of great importance, since it must in some degree operate upon every matter that can come under our consideration; and it becomes still more important, in proportion as the situation of our affairs becomes more nice and full of difficulty. Few parliaments have ever met at a more interesting crisis than the present; nor can the annals of our history furnish many periods of time that have called so loudly for the utmost exertion of parliamentary wisdom, or afforded so ample a field for its deliberations. Happily we now enjoy the blessings of peace; and it imports us to remember, that the hour of tranquillity is the hour of resource: the fate of this country, for ages, may, perhaps, depend on the counsels of the present parliament; surely then we cannot be too cautious whom we appoint to preside over them. In vain shall we expect that our proceedings should be attended with their due weight and efficacy, if he who fills our Chair possesses not that worth and those talents which give dignity to power, and make authority respectable.

Within these walls many gentlemen might doubtless be found, whom we might deem worthy of so important a trust, and whose conduct we might reasonably hope would justify our opinion; but I congratulate the House that we have something stronger than opinion on which to ground our confidence, we have experience, the experience of the last parliament, and the certain assurance which that, and only that, can give.

I will not so much offend the delicacy of the right hon. member who has lately presided here, or do so much injustice to his character, as to attempt to describe it; his best advocates are his actions; I appeal to them; and they will speak for him in such a strain, as must drown the feeble voice of panegyric. I feel it more becoming me to leave to gentlemen's own recollection, the wisdom, the knowledge, the integrity, the impartiality, the zeal, the assiduity, with which the right hon. gentleman has already executed his high office; and to content myself with paying to his merits the most honourable tribute which it is in my power to offer, by seconding my noble friend's motion, that the right hon. sir John Cust do take the Chair of this House, as Speaker.

The House calling sir *John Cust* to the Chair, he stood up in his place, and said,

" Mr. Tyrwhitt,

" It is a natural, and I will add a commendable, ambition in every one, to wish for the approbation of his country.

" This ambition in me, cannot be more amply gratified, than by the favourable sentiments which the two noble lords have expressed of my past conduct, and by the kind manner in which their partiality to me has induced them to recommend me to the House, for the very important, but very arduous charge, of again filling that Chair.

" I am truly sensible of my obligations to the noble lords, and shall ever set the highest value upon their good opinion; but I must entreat them, as well as the House, to reflect, that abilities, far superior to any which I can boast, are requisite for that high station.

" The experience which I may be supposed to have gained in a former parliament, has indeed taught me what are the necessary qualifications; but it has, at the same time, convinced me how few of them I possess.

" Notwithstanding my most diligent endeavours to discharge my duty, and to answer, in the smallest degree, the expectations of the last House of Commons, when they did me the unmerited honour of calling me unanimously to that Chair, the difficulties would have been too great for me to have surmounted, without the peculiar favour and indulgence of that

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House; of which, as no one ever stood in greater need, so no one ever had a greater share, and which I shall ever remember with the greatest gratitude. It would be as unreasonable in me to ask, as for this House to grant, the same: and therefore, that their proceedings may receive no detriment from my defects; that their weight, their authority, and the reverence which is due to them, may be preserved; I hope they will permit me to enjoy the satisfaction, as a private member, of seeing my past conduct thus approved; and that, among so many gentlemen of greater knowledge and experience, they will turn their thoughts upon one every way worthier of their choice than myself."

The House again calling sir John Cust to the Chair, he was taken out of his place by lord Charles Spencer and lord viscount Palmerston, who led him from thence to the Chair; where, upon the first step, he said,

"I must beg leave to remind gentlemen, that they have yet an opportunity to re-consider a resolution, which I am afraid they have too hastily taken, and to recall me to do my duty as a private member."

But the Members cried, 'No, No.'

Whereupon sir *John Cust* ascended the upper step of the Chair; and standing there, said,

"It would ill-become me to dispute any longer the commands of this House, to which I shall at all times pay an implicit obedience. I cannot sufficiently express my acknowledgments for their favourable acceptance of my past endeavours to do my duty in this place; but I hope they will permit me to lay my imperfections before his Majesty to-morrow."

And thereupon he sat down in the Chair; and then the mace, which before lay under the table, was laid upon the table.

Then the right hon. *John Shelley* said,

Mr. Speaker; the deference and dutiful respect I wish always to pay to the proceedings of this House, will not permit me to be satisfied with only making the usual motion for adjournment, after the election of a Speaker: I cannot therefore deny myself the pleasure of testifying the high satisfaction I feel on seeing you again called upon to that important trust; as I am happy of this opportunity of shewing you personal regard and attention.

I must beg leave to congratulate the whole House on this occasion; the elder part, who would always be ready to lend you assistance and support in arduous and difficult points, on the ease they will find in your being able, in so masterly a manner, to clear up and elucidate any thing that might appear doubtful; the younger, and those gentlemen who have never sat in parliament before, on the favour and indulgence they will be sure to meet with from you.

The fortune, Sir, you not only have in possession, but still so great in reversion, is an additional circumstance that must add weight and dignity to the Chair you now fill, as well as be a security to the public of your being above the temptation of little worldly allurements: as to your integrity, it would be presumption to mention it; as your actions, in the course of the last parliament, gave the strongest demonstrations of it; so that a repetition of them, if spoke with truth, must look like flattery.

I will now, Sir, detain you and the House no longer, than to move to adjourn; and therefore I move you, that this House do adjourn till to-morrow morning, eleven of the clock.

The Speaker's Speech on being presented and approved of.] May 11. The Lords Commissioners sent for the Commons, who being come,

The *Speaker-Elect* said,

"My Lords,

"His Majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, have, in pursuance of his royal directions, and according to their undoubted rights, proceeded to the election of one of their members to be their Speaker, among so many of them better qualified for this high and important trust, their choice has again fallen upon me.

"His Majesty must, I am afraid, have observed so many imperfections in my conduct during the last parliament, that I need urge no other reasons to induce his Majesty to give his faithful Commons an opportunity of presenting one worthier of their choice, and his Majesty's royal approbation."

Then the *Lord Chancellor* said,

"Sir John Cust;

"Your conduct, during the last par-

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liament, in that important trust to which you are now again called, hath given his Majesty the fullest and most convincing proof of your great knowledge, wisdom and sufficiency: and his Majesty hath commanded us to let you know, that he entirely approves the choice which his Commons have made; and we do, by virtue of his Majesty's commission, and in his name, allow and confirm you to be their Speaker."

Then Mr. *Speaker* said:

"My lords; it is my duty to resign myself, as I do, to his Majesty's determination, and to beseech his Majesty's acceptance of my most humble and dutiful acknowledgements for this fresh mark of his grace and favour. I have had such ample experience of his Majesty's goodness, that, for my encouragement in the execution of this great trust, I cannot doubt of his Majesty's making all just allowances for my failings, of his pardon for all my future involuntary errors, at least that they may not be imputed to his faithful Commons. That they may be the better enabled to do their duty to his Majesty, and their country, I do, in their name, and on their behalf, by humble petition to his Majesty, lay claim to all their ancient rights and privileges, particularly that their persons, their estates, and servants, may be free from arrests and all molestations; that they may enjoy liberty of speech in all their debates; may have access to his Majesty's royal person whenever occasion shall require; and that all their proceedings may receive from his Majesty the most favourable construction."

Then the *Lord Chancellor* said:

"Mr. Speaker;

"We have it in command from the King, to acquaint you, that his Majesty is fully persuaded of the prudence and temper of this House of Commons, as well as of their duty and loyalty.

"And we do, by virtue of his Majesty's commission, and in his name, declare to you, that the King grants and allows to them all their privileges in as full and ample manner, as they have at any time heretofore been granted or allowed by his Majesty, or any of his royal predecessors.

"As to what concerns yourself, Sir, though his Majesty is convinced that a person of your wisdom and discretion can never stand in need of that pardon which your modesty hath induced you to ask, yet his Majesty hath commanded us to assure you, that you may rely upon his gracious support and acceptance in your execution of this high and important charge, and that he will put the most favourable construction upon all your words and actions."

The Lords' Commissioners Speech on opening Session.] After which, the *Lord Chancellor* made the following Speech to both Houses;

"My Lords, and Gentlemen,

"In pursuance of the authority given us by his Majesty's commission, under the great seal, amongst other things, to declare the causes of your present meeting: we are, by the King's command, to acquaint you, that his Majesty has not called you together at this unusual season of the year, in order to lay before you any matters of general business, but merely to give you an opportunity of dispatching certain parliamentary proceedings, which his Majesty's desire of providing, at all events, for the welfare and security of his good subjects, makes him wish to see completed as soon as possible, and with that dispatch which the public convenience, as well as your own, required. His Majesty, at the same time, has commanded us to assure you of his perfect confidence in this parliament, and that he has the strongest reason to expect every thing from their advice and assistance that loyalty, wisdom, and zeal for the public good, can dictate or suggest."

Joint Address of Thanks.] Then the Commons withdrew; and the following Joint Address, moved in the Lords by the duke of Northumberland, was agreed to, and ordered to be sent down to the Commons; by whom it was also approved of:

"Most Gracious Sovereign,

"We your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons, in parliament assembled, beg leave to return your Majesty our most hearty thanks for that gracious and paternal attention to the welfare of your people, which has induced your Majesty at this time to interpose your own more immediate authority for putting an end to that dangerous disturbance of the public peace, those outrageous acts of violence to the property of your Majesty's subjects, and that most audacious defiance of the authority of the civil magistrates,

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which have of late prevailed to so alarming a degree in and near this great metropolis.

"Your Majesty's express command, signified by your royal proclamation, that all the laws, for preventing, suppressing, and punishing all riots, tumults and unlawful assemblies, be put into immediate execution, will, we hope, effectually prevent the continuance or repetition of these disorders: but should any of your Majesty's subjects continue so lost to all sense of their own true interest as well as duty as to go on to interrupt, by their lawless and desperate practices, that quiet and peaceable enjoyment of every right and privilege allotted to each individual among us by our excellent constitution, which it has ever been your Majesty's first object and chief glory to secure and perpetuate to us all; permit us, your Majesty's truly dutiful and grateful subjects, the Lords spiritual and temporal and Commons in parliament assembled, to assure your Majesty of our ready concurrence in every measure that may contribute to enable your Majesty most effectually to maintain the public authority, and carry the laws into due execution; and of our determined resolution most cheerfully and vigorously to support your Majesty against every attempt to create difficulty or disturbance to your Majesty's government."

The King's Answer.] His Majesty returned this Answer:

"My Lords and Gentlemen,

"I receive with great satisfaction this loyal, dutiful, and seasonable Address of both Houses of Parliament: it is with the utmost concern that I see this spirit of outrage and violence prevailing among different classes of my subjects; I am, however, convinced, that the vigorous exertion of lawful authority, which I will continue to enforce, joined to your support and assistance, will have the desired effect of restoring quiet and good order among my subjects."

The Speaker's Speech to the Commons on being chosen.] The Commons being returned, Mr. Speaker reported, that the House had been in the House of Peers: where his Majesty was pleased, by his commissioners, to approve their choice of him for their Speaker; and that he had, in their name, and on their behalf, by humble petition to his Majesty, laid claim to all their ancient rights and privileges; particularly that their persons, their estates, and servants, might be free from arrests, and all molestations; that they might enjoy liberty of speech in all their debates; might have access to his Majesty's royal person whenever occasion should require; and that all their proceedings might receive from his Majesty the most favourable construction; which, he said, his Majesty by his said commissioners, had confirmed to them, by granting and allowing their privileges in as ample a manner as ever they were granted or allowed by his Majesty, or any of his royal predecessors. Then

Mr. *Speaker* said,

I must now beg leave to repeat my most respectful acknowledgments to the House for this distinguishing mark of their good opinion. Such an approbation of my past conduct, is the strongest incitement which I can have to discharge this great trust which they have reposed in me, with diligence and fidelity. If they observe my heart and intentions to be right, which I trust they ever will, I cannot doubt of their support and protection on all occasions; their pardon for my failings; their correction of my mistakes. I can as little doubt of their assistance to me, in keeping strictly to all the rules and orders which have been so wisely established by our ancestors, in preventing all heats and personal altercations, than which, nothing can more obstruct the freedom of debate, or be so unsuitable to the gravity and dignity of this great assembly.

"Gentlemen who have sat in former parliaments, must have seen the ill effects of late hours: how business of great moment, on the one hand, has been carried on with too great precipitation; and, on the other hand, that matters of no less importance have been postponed from day to day, and at last deferred. To prevent these inconveniences for the future, I hope gentlemen will see the absolute necessity of an early attendance."

The Thanks of the Lords given to the Lord Mayor of London for his Conduct during the late Disturbances.] May 16. The Lord Chancellor acquainted the House, "that, pursuant to the order of Thursday last, he had transmitted their lordships' Resolution of that day, giving the thanks of this House to the right hon. Thomas Harley, lord mayor of the city of London, for the vigilance, activity, and firmness, which he hath exerted for the preservation of the peace of the said city,

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against the late attempts to disturb it: and that yesterday he received a Letter from the said lord mayor, in which he returned an answer to the said Resolutions:"

Which was read by the Clerk as follows;

"My lord; I must desire your lordship to communicate to the House of Lords, the high sense I have of the distinguished honours repeatedly conferred upon me by that august assembly, which far exceed any merit I have in endeavouring to preserve the peace of the city of London.

"It has ever been my ambition to enforce a due respect and obedience to the law, as the only means to preserve the constitution and liberty of my country.

"Encouraged by this mark of their lordships' approbation, I shall persevere in exerting every endeavour to maintain the constitutional authority of the civil magistrate, and to preserve the peace of this great city against all attempts to disturb it.

"My lord; permit me to add my acknowledgments to your lordship, for the obliging manner in which your lordship has communicated to me this distinguished honour, and the applause which your lordship is pleased to express in your private as well as public capacity of my conduct. I have the honour to be, &c.

"THOMAS HARLEY."

"Mansion-house, 15th May 1768."

The Thanks of the Commons given to the Lord Mayor of London for his Conduct during the late Disturbances.] May 16. The Lord Mayor of London being come into the House, Mr. Speaker acquainted him, that the House had, upon Friday last, unanimously resolved, "That the Thanks of this House be given to him, for his vigilant and active conduct, in support of the laws, and for the preservation of the public peace, during the late disturbances:" and Mr. Speaker gave him the Thanks of the House accordingly, as follows:

"My Lord Mayor of London,

"The spirit of licentiousness, which unhappily prevails in this kingdom, has lately broke out into such outrageous acts of violence, and such daring insults upon civil authority, in and about this great metropolis, that, unless the salutary laws for the preservation of peace and good order are strictly put in execution, consequences of the most alarming nature are to be apprehended, anarchy and confusion must ensue, which can only end in tyranny and despotism. No man therefore can do a more essential service to his country, than a civil magistrate, who, by a prudent, temperate, but, at the same time, firm and vigorous, exertion of the powers, with which the laws of the land entrust him, suppresses all riots and tumults, and resolutely resists those lawless and desperate practices, which tend to deprive every individual of the rights and privileges to which he is entitled by our excellent constitution. This eminent service has your lordship performed to your country: your conduct upon the late occasions shew how right a judgment your fellow citizens formed of you, when they called you to your present high and important station. The beneficial effects of this conduct are not confined to the metropolis, over which you so worthily preside: they extend to the whole kingdom. By your example, every other civil magistrate will be convinced, that he has sufficient power, by the laws, to prevent every disturbance of the public peace; and that it is a duty incumbent upon him to exert those powers. By the success which has attended your lordship's vigilance and activity, the factious and seditious will learn, that they cannot offend the laws with impunity. Those who have been seduced, under false pretences of liberty, to join in tumults and disorders, will be made sensible, that nothing is so subversive of that very liberty, as acts of outrage and violence; and that perfect obedience to lawful authority is the only security which they can have for the enjoyment of every thing which is dear and valuable to them.

"Your lordship has already experienced, that this House will not permit signal merit to pass undistinguished or unrewarded by them. You had the peculiar honour of receiving their thanks, on a former occasion. In considering the great service which you have now done the public, they have come to an unanimous resolution, that the thanks of this House be given to your lordship, for your vigilant and active conduct in support of the laws, and for the preservation of the public peace, during the late disturbances.

"I cannot sufficiently express my satisfaction, that it has a second time fallen to my lot to be an instrument of conveying to your lordship (for whom I ever had the highest personal respect) this very honourable testimony of the approbation which the Commons of Great Britain have

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given of your conduct: and, in pursuance of the commands which I have received from the House, I do, in their name, give your lordship their thanks."

Upon which his lordship said,

"Mr. Speaker;

"The repeated honours conferred on me by this House, conveyed to me in such obliging terms by you, far exceed any merit I have, in having endeavoured to preserve the peace of the city of London.

"It has ever been my ambition to enforce a due respect and obedience to law, as the only means to preserve the constitution and liberty of my country.

"Encouraged thus, by this mark of approbation, I shall persevere in exerting every endeavour to maintain the constitutional authority of the civil magistrate, and to preserve the peace of this great city against every attempt to disturb it.

"Permit me, Sir, to add my acknowledgments to you, for the kind manner in which you have communicated to me this distinguished honour; and to assure you, that I shall ever retain the most grateful sense of it."

May 18. A motion was made, That the proper officer of the crown do inform this House why the laws were not immediately put in force against John Wilkes, esq. an outlaw, when he returned to this kingdom, in February last. Mr. Wilkes was at this time a prisoner in the King's Bench. However the House did not choose to enter into the matter, and therefore the question to adjourn was put, and carried without a division.

The reason given for calling the parliament at this unusual season, was to continue the Act passed last session, and which might expire before the next winter session, permitting the importation of oats and oatmeal, rye, and rye flour, and prohibiting the exportation of corn, grain, meal, malt, flour, bread, biscuit, and starch; also prohibiting the extraction of low wines and spirits from wheat, and wheat flour. A committee was therefore appointed to report upon the matter, and the House concurring with the Report, the Bills passed.*

On the 21st the Bills received the royal assent by commission; the parliament then adjourned to the 2d of June, and on that day was prorogued to the 21st of the same month; and afterwards to the 8th of November.

SECOND SESSION
OF THE
THIRTEENTH PARLIAMENT
OF
GREAT BRITAIN.

The King's Speech on Opening the Session.] November 8, 1768. The King came to the House of Peers, and opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen,

"The opportunity which the late general election gives me of knowing from their representatives in parliament the more immediate sense of my people, has made me desirous of meeting you as early as could be, consistent with your own convenience. The shortness of the last session of the late parliament preventing their prosecuting the consideration of those great commercial interests which had been entered upon in the preceding session, you will, I am persuaded, agree with me in opinion, that your deliberations on these very important objects ought to be resumed without loss of time; and I trust that they will terminate in such measures as may be productive of the most considerable and essential benefits to this nation.

"It would have given me great satisfaction to have been able to acquaint you, that all the other powers of Europe had been as careful as I have ever been to avoid taking any step that might endanger the general tranquillity. I have constantly received, and do still receive from them, the strongest assurances of their pacific dispositions towards this country. No assurances, however, shall divert my constant resolution stedfastly to attend to the general interests of Europe, nor shall any consideration prevail upon me to suffer any attempt that may be made de-

* During the whole of this session the Standing Order respecting the admission of strangers was strictly enforced in both Houses. The following Speech appeared in the Political Register for July, 1768:

A Speech against refusing admittance into the Gallery of the House of Commons.

If the noble lord, who is so anxious to have the doors of the House constantly shut against

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rogatory to the honour and dignity of my crown, or injurious to the rights of my people.

"At the close of the last parliament, I expressed my satisfaction at the appearances which then induced me to believe that such of my subjects as had been misled in some parts of my dominions were returning to a just sense of their duty; but it is with equal concern that I have since seen that spirit of faction,* which I had hoped was well nigh extinguished,

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strangers, had contented himself with insisting, that there is a standing order to this effect, and that a standing order should be strictly observed, I should have thought it my duty to submit to his lordship's motion, though I confess with some reluctance. But when the noble lord, not satisfied with an authority paramount to all argument, thinks it necessary to give reasons for his opinion, he seems to admit that the point is at least disputable; therefore I hope he will permit me to offer some reasons to the House, why I differ from him entirely.

The only tolerable pretence for refusing admittance to strangers of decent appearance and behaviour, is, lest there should not be room for the members to attend to business with ease and convenience to themselves. Whenever this happens, and we all know how seldom it does happen, every member has a right (and I dare say his lordship will seldom fail to make use of it) to move that the House may be cleared. In every other light, I think that, so so far from being offended at the presence of strangers, we should wish to have as many witnesses as possible of all our proceedings. What his lordship's motives may be, I cannot pretend to determine; but, for my own part, as I am neither ashamed nor afraid of what I say in this House, I care not how soon, or how universally it is reported abroad. We are not a council of state, nor is it our business to deliberate upon, or direct the secret operations of government, though it be our duty sometimes to enquire into them. We are the representatives of the people, and in effect a popular assembly. To aim at secrecy in our debates, would not only be a vain and ridiculous attempt, but, I apprehend, absolutely contrary to the principle upon which this House is constituted. It would be turning a democratical assembly into the form of an aristocracy. The nobility of Venice wisely bar the doors of their senate-house, because they are not the representatives, but the tyrants of the people. Such a policy may be prudent and necessary, where the interests of a few who govern, are different from those of the many, who are governed. But I flatter myself, the noble lord will not insinuate, that the House of Commons and the people of Great Britain have different or separate interests from each other, or that we can have any views, which it may import us to conceal from our constituents. Such a case may possibly happen hereafter, but I am sure it cannot be said with any appearance of truth of the present House of Commons. His lordship tells us, that by admitting strangers to hear our debates, the speeches of the members are soon carried abroad and generally misrepresented. Perhaps it may be so; but will barring our doors prevent that inconvenience? does he think that in an assembly of above five hundred persons, the discourses held here will not be carried abroad, will not be misrepresented? The members of this House are neither bound to secrecy, nor is our memory or judgment infallible. But if his anxiety turns chiefly upon this point, I would wish him to consider that a stranger, who sits quietly in the gallery, is much more likely to retain, with exactness, what he comes on purpose to hear, than a member who perhaps is interested in the debate, and who probably hears the arguments on one side with prejudice, while he listens with partiality to those of the other. Shall we then, Sir, without any reasonable motive whatsoever, give this House the appearance of a foreign inquisition? Shall it be said that a British House of Commons makes laws for the people, as some slavish courts of judicature abroad try state criminals, *jauuis clausis*? To the honour of our courts of justice, they are open to all mankind to make them respectable in the eyes of the people. We are not indeed a court of judicature, but every argument for opening the courts in Wesminster-hall operates with equal or greater force upon us. We are a popular assembly. There is nothing secret in the nature of our business. By publishing our votes we admit that the nation has a right to be informed of our proceedings. But above all, it is of the highest importance to the people to know the sentiments and conduct of each particular member, that they may be able to form a just judgment of our integrity and ability, and in what manner we support the interests of our constituents. And shall motives such as these have no weight with us? Shall our inhospitable doors be closed, because one member is afraid of being misrepresented? I wish the noble lord was as cautious of what he writes in other places, as of what he says here. But in that respect he has taken care to be perfectly safe. The military manifesto, which he has thought proper to give under his hand, is too plain to be misunderstood, and too bad to be misrepresented.

* "Lord Chatham saw with dissatisfaction many of the late ministerial proceedings; he was displeased with their conduct respecting America; indignant at the tranquillity with which his colleagues suffered the French to possess themselves of Corsica, and in many other respects discontented; he also felt great repugnance at seeing his name connected with men and measures so generally unpopular, and determined to resign. (October 15.) He

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breaking out afresh in some of my colonies in North America; and, in one of them, proceeding even to acts of violence, and of resistance to the execution of the law. The capital town of which colony appears by late advices to be in a state of disobedience to all law and government: and has proceeded to measures subversive of the constitution, and attended with circumstances that might manifest a disposition to throw off their dependence on Great Britain. On my part, I have pursued every measure that appeared to be necessary for supporting the constitution, and inducing a due obedience to the authority of the legislature, You may rely upon my steady perseverance in these purposes; and I doubt not but that, with your concurrence and support, I shall be able to defeat the mischievous designs of those turbulent and seditious persons, who, under false pretences, have but too successfully deluded numbers of my subjects in America; and whose practices, if suffered to prevail, cannot fail to produce the most fatal consequences to my colonies immediately; and, in the end, to all the dominions of my crown.

"Gentlemen of the House of Commons,

"The proper Estimates for the service of the ensuing year, I have ordered to be laid before you, fully relying on your readiness to grant me the necessary supplies. Indeed I cannot doubt of finding in this House of Commons the same affectionate attachment to my person and government as I have always hitherto experienced from my faithful Commons.

"My Lords and Gentlemen,

"It is with great satisfaction that I now find myself enabled to rejoice with you, upon the relief which the poorer sort of my people are now enjoying, from the distress which they had so long laboured under from the high price of corn. At the same time that we are bound devoutly to acknowledge, in this instance, the gracious interposition of Providence, it will become us to apply the best precautions that human wisdom can suggest, for guarding against the return of the late calamity. In the choice, however, of proper means for that purpose, you cannot proceed with too great circumspection.

"I have nothing further to recommend to you than that, in all your deliberation, you keep up a spirit of harmony among yourselves. Whatever differences of opinion may prevail in other points, let it appear, that wherever the interest of your country is immediately concerned, you are all ready to unite. Such an example from you cannot fail of having the best effects from the temper of my people in every part of my dominions; and can alone produce that general union among ourselves, which will render us properly respected abroad, and happy at home."

The Lords' Address of Thanks.] His Majesty having retired, the following Address, moved by the earl of Pomfret, was agreed to by their lordships:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return your Majesty our humble thanks for your most gracious Speech from the throne.

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would not even attend at court to announce his resolution, but sent the privy seal by lord Camden. This event was not unexpected. Lord Bristol was appointed in his stead; and as lord Camden still continued Chancellor, no material alterations took place." Adolphus.

"The earl of Chatham, the founder of the present ministry, borne down with infirmities, and totally disapproving of the measures of his colleagues, had long withdrawn from public business, and lately resigned his office of lord privy seal. The duke of Grafton, though first lord of the treasury, had been intended to act only a secondary and subordinate part, as in the same office the duke of Newcastle had done, during the splendid period of Mr. Secretary Pitt's administration. As the health of lord Chatham rendered him unequal to the exertions of his earlier years, the duke of Grafton actually became prime minister. The talents of this nobleman did not exceed mediocrity, nor was he mature in political experience. So qualified, he was thrust by accident, rather than exalted by design, into a situation, to fill which, in the distracted state of affairs, required a minister of consummate abilities and wisdom. Lord North, while only chancellor of the exchequer, rarely exceeded his official business, or took an active share in the general concerns of administration. Lords Camden and Shelburne, both coinciding in the views and opinions of lord Chatham, had little connection with their colleagues in office. The other secretaries of state were not distinguished for political talents; so that, on the whole, the present ministry was far from possessing that combined ability and concert, that would have qualified them to manage with effect the manifold and complicated objects which demanded the attention of the British government. Such was the state of foreign, colonial, and domestic affairs, when the season arrived for the meeting of parliament." Bisset.

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"We desire, with hearts full of gratitude, to acknowledge that royal goodness, so evidently manifest to all your people, by your Majesty's constant attention to the great commercial interests of this country: we should be wanting on our part, if we did not apply to the consideration of them with that alacrity which objects so very important, and capable of producing the most essential benefits to the nation, demand of us.

"The resolution which your Majesty is pleased to express, that you will not suffer any attempt to be made derogatory to the honour and dignity of your crown, or injurious to the rights of your people, does, and ever will, call from us the assurances of our most cheerful support; nor do we conceive that any conduct can contribute more than this will, to render all the other powers of Europe as careful as your Majesty has ever been to avoid taking any step that may endanger the general tranquillity.

"We feel the most sincere concern, that any of our fellow subjects in North America, should be misled by factious and designing men into acts of violence and of resistance to the execution of the law, attended with circumstances that manifest a disposition to throw off their dependence upon Great Britain. At the same time that we shall be always ready to contribute to the relief of any real grievance of your Majesty's American subjects, we most unfeignedly give your Majesty the strongest assurances, that we shall ever zealously concur in support of such just and necessary measures as may best enable your Majesty to repress that daring spirit of disobedience, and to enforce a due submission to the laws; always considering, that it is one of our most essential duties, to maintain inviolate the supreme authority of the legislature of Great Britain over every part of the dominions of your Majesty's crown.

"We thankfully adore the merciful interposition of Providence, in the relief which the poorer sort of your Majesty's subjects have received from the distress they had so long laboured under, from the high price of corn: we shall apply our utmost attention to prevent, as far as in human prudence lies, the return of such a calamity, and shall give so important a subject that full consideration which the nature of it necessarily requires.

"Engaged in the deliberation of so many important matters, we beg leave to assure your Majesty, that we shall studiously endeavour that our proceedings may testify our readiness to unite, wherever the interest of our country, and our attachment to your Majesty is concerned; happy if, by such an example, the deluded part of your Majesty's subjects may be induced to return to their duty, and gratefully feel the blessings of the mildest government and most perfect constitution."

The King's Answer.] His Majesty returned this Answer:

"My Lords,

"I received with great satisfaction the assurances you give of your resolution to pursue the commercial interests of this country, and your readiness to support the honour of my crown, and the rights of my people.

"Your zealous concurrence in every measure that can bring relief to my people is well known to me, nor do I doubt of the attention that you will always give to any real grievances of my American subjects. The strong assurances I receive from you at the same time of your determination to vindicate the just legislative authority of parliament over all the dominions of my crown, deserve my warmest approbation."

The Commons' Address of Thanks.] The Commons being returned to their House, lord Henley moved an Address of Thanks. Warm debates however arose upon some parts of it; and many severe strictures were made upon the conduct of administration, in respect both to foreign affairs and those of the colonies. The dangerous breach of treaty, and violation of the general tranquillity, by the invasion of Corsica, and the spreading and baneful influence of the family compact, were strongly insisted upon by Mr. Burke. A total neglect of our foreign interests, as well as of those in which the general safety of Europe was concerned, was warmly urged; and, among many instances, the injuries sustained by our commerce in Portugal, and the non-residence of several of our foreign ministers at the courts to which they were appointed, were brought in proof by Mr. Grenville.

To these, and others it was answered, that addresses were to be considered as matters of form; in a great measure complimentary, and declarative of loyalty and thanks. That any disagreeable strictures in a form of that nature, which was to be immediately circulated throughout Eu-

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rope, would give foreigners a prejudicial idea of the harmony that subsisted between the king and his parliament. And that there was sufficient time to examine into the conduct of administration, and to censure any exceptionable parts of it, in the regular course of parliamentary business.

The Address was agreed to, as follows:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, return your Majesty our humble thanks for your most gracious Speech from the throne:

"And beg leave to congratulate your Majesty upon the safe delivery of the Queen, and the birth of another princess; an event which must afford the greatest comfort to all your Majesty's subjects, as it is an increase of your own domestic felicity, and an additional security that the blessings we enjoy under your Majesty's auspicious government will be continued to our latest posterity.

"We assure your Majesty, that, duly sensible of the importance of those great commercial interests pointed out to us by your Majesty, we will, with all convenient dispatch, enter upon the consideration of them, and will use our utmost endeavours to adjust and regulate them in such manner as may be productive of solid and lasting advantages to the public.

"We most gratefully acknowledge your Majesty's paternal regard for the ease and welfare of your people, which has made you ever desirous of continuing to them the blessings of peace; at the same time, we entirely rely on your Majesty's constant and watchful attention to the general interests of Europe; and feel the highest satisfaction from your gracious declaration that no consideration shall prevail on your Majesty to suffer any attempt which may be made, derogatory to the honour of your crown, or injurious to the rights of your people.

"We sincerely lament, that the arts of wicked and designing men should have been able to rekindle that flame of sedition in some of your Majesty's colonies in North America, which, at the close of the late parliament, your Majesty saw reason to hope was well nigh extinguished.

"We shall be ever ready to hear and redress any real grievance of your Majesty's American subjects; but we should betray the trust reposed in us, if we did not withstand every attempt to infringe or weaken our just rights; and we shall always consider it as one of our most important duties, to maintain entire and inviolate the supreme authority of the legislature of Great Britain over every part of the British empire.

"We beg leave to present our most dutiful thanks to your Majesty, for having taken such steps as you judged necessary for supporting the constitution, and for repressing that spirit of faction and disobedience, which, in the chief town of one of your Majesty's colonies, appears to have proceeded even to acts of violence, in direct defiance of all legal authority; and we will, by every means in our power, cheerfully and zealously support your Majesty in all such future measures as shall be found requisite to enforce a due obedience to the laws, to restore order and good government where they have been disturbed, and to establish the constitutional dependance of the colonies on Great Britain, so essential to the interest and prosperity of both.

"With hearts full of gratitude to the Divine goodness, we partake of the joy which fills your Majesty's royal breast, on seeing the poorer sort of your people relieved from the distress which they have lately suffered by the high price of corn; and we will, by every prudent measure, endeavour to guard as far as in us lies against the return of that calamity.

"Your faithful Commons will with the utmost zeal and alacrity grant to your Majesty every necessary supply; and study to manifest in all their proceedings that uniform attachment to the public good, which your Majesty is graciously pleased to recommend to them, and of which your Majesty's own conduct furnishes an illustrious example."

The King's Answer.] His Majesty returned this Answer:

"Gentlemen,

"I return you my hearty thanks for your very dutiful and affectionate Address.

"The attachment which you manifest to me and my family, in your congratulations upon the safe delivery of the Queen, and the birth of another princess, is extremely acceptable to me. Nothing can afford me greater satisfaction than the assurances you give me of applying your earnest attention to the relief of my people; and your resolution to maintain the authority of the legislature over all the dominions of my crown."

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Motion for the Correspondence with France relating to Corsica.] Nov. 17. Mr. H. Seymour moved, "That copies of all the correspondence between the secretaries of state, and our ministers at the court of France, relative to the affairs of Corsica, from the 1st of January 1767, should be laid before the House; and also copies of all instructions to any of the said ministers and of all memorials and representations to or from the said court, with the several answers thereunto, upon the subject."

This motion, though carried in the negative, produced a long discussion upon the affairs of Corsica. On one side it was represented as a place of no manner of importance; destitute, though an island, of a good harbour, and an acquisition that would rather prove a mischief than a benefit to France. Under such a description it was not difficult to shew the absurdity of entering into a war in any situation, for an object of so little consequence; but in our present circumstances, loaded as we already are with a heavy debt, the folly and madness of such a measure were so glaring, as not to admit of a serious discussion.

It was, however, said on the other hand, that every accession of power to France was dangerous to this country. That the situation of this island in the Mediterranean made it particularly so, and may be attended with the most pernicious effects to our commerce in that sea, besides the giving to France a great and dangerous influence in the affairs of Italy. It was said that England had paid a constant attention for many years, to the preservation of a due equilibrium in the affairs of Europe, to which we are indebted not only for security, but for a great part of our national power and influence. That instead of descending to a minute calculation of the exact value of Corsica, or rating it at a chapman's price in a sale to France, we were to consider this invasion as a violent breach of treaty, and subversive of that equilibrium. The fact as to the harbours was denied; as to the danger of a war with France, it was said, that if she was prepared and willing to come to such an extremity, for a matter of no consequence or value, we might look upon the war as already declared, as the want of a pretence could not give a moment's delay.

A motion was also made for an Address "That there be laid before the House, copies of all applications from the civil magistrates to the War-office for troops, and of all orders and letters to the troops employed, or to the officers commanding them; and also copies of the several reports made to the War-office from such officers, during the riots in the month of May last."

The design of this motion was to enquire into the causes of the massacre in St. George's Fields; it was therefore opposed by the whole weight of administration. A warm discussion consequently arose, in which many parts of the conduct then observed were severely censured. Many gentlemen thought, that though in some instances some measures of government could not easily be defended; yet that in the present temper of the times, too minute an enquiry into the acts of government upon that occasion, or any public censure passed upon them, might serve too much to lower it in the public opinion, and to increase that licentiousness which was already too prevalent among the populace. On this principle, many in opposition either remained neuter, or fell in with administration. The motion was accordingly, upon a division, passed in the negative by a very great majority.

Proceedings in both Houses respecting the Discontents in America.] December 15. In the House of Lords the order of the day for the further consideration of the American Papers being read: it was moved,* "To resolve, by the Lords spiri-

* Hardwicke Papers. Minute of Proceedings in the House of Lords, December 15, 1768.

Lord Hillsborough moved eight Resolutions founded on the Papers.

The duke of Bedford moved an address to thank the King for laying the papers before parliament—to approve, in general, the conduct of administration, and to advise the crown to have informations sent over here in case any act of treason or misprision of treason have been committed in the province, and to have them tried in this country under the authority of the statute 35th of Henry 8th.

Agreed to without a division, but with some debate, and then ordered to be communicated to the House of Commons.

Lord Temple declared that he thought them all nugatory—a paper war with the colonies—and then went out of the House.

The duke of Richmond rather cavilled at the Resolutions than stated any particular objections. He called for some papers to be read which he thought were not exceptionable, but on examination they turned out so, as only allowing the right of the legislature to bind the

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tual and temporal [and Commons] in parliament assembled, 1. That the votes, resolutions, and proceedings, of the house of representatives of Massachusets Bay, in the months of January and February last, respecting several late acts of parliament, so far as the said votes, resolutions and proceedings, do import a denial of, or to draw into question, the power and authority of his Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons in parliament assembled, to make laws and statutes of sufficient force and validity to bind the colonies and people of America, subjects of the crown of Great Britain, in all cases whatsoever, are illegal, unconstitutional, and derogatory of the rights of the crown and parliament of Great Britain.

2. "That the resolution of the said house of representatives of the province of Massachusets Bay, in January last, to write letters to the several houses of representatives of the British colonies on the continent, desiring them to join with the said house of representatives of the province of Massachusets Bay, in petitions, which do deny, or draw into question, the right of parliament to impose duties and taxes upon his Majesty's subjects in America, and in pursuance of the said resolution, the writing such letters, in which certain late acts of parliament, imposing duties and taxes, are stated to be infringements of the rights of his Majesty's subjects of the said province, are proceedings of a most unwarrantable and dangerous nature, calculated to inflame the minds of his Majesty's subjects in the other colonies, tending to create unlawful combinations, repugnant to the laws of Great Britain, and subversive of the constitution.

3. "That it appears that the town of Boston, in the province of Massachusets Bay, has for some time past been in a state of great disorder and confusion, and that the peace of the said town has at several times been disturbed by riots and tumults of a dangerous nature, in which the officers of his Majesty's revenue there have been obstructed, by acts of violence, in the execution of the laws, and their lives endangered.

4. "That it appears, that neither the council of the said province of Massachusets Bay, nor the ordinary civil magistrates, did exert their authority for suppressing the said riots and tumults.

5. "That in these circumstances of the province of the Massachusets Bay, and of the town of Boston, the preservation of the public peace, and the due execution of the laws, became impracticable, without the aid of a military force to support and protect the civil magistrates, and the officers of his Majesty's revenue.

6. "That the declarations, resolutions, and proceedings, in the town meetings at Boston, on the 14th of June and 12th of September, were illegal and unconstitutional, and calculated to excite sedition and insurrections in his Majesty's province of Massachusets Bay.

7. "That the appointment, at the town meeting on the 12th of September, of a convention to be held in the town of Boston on the 22d of that month, to consist of deputies from the several towns and districts in the provice of the Massachusets Bay, and the issuing a precept by the select men of the town of Boston, to each of the said towns and districts, for the election of such deputies, were proceedings subversive of his Majesty's government, and evidently manifesting a design in the inhabitants of the said town of Boston to

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colonies in cases of necessity, of which they were to be judges!

Lord Shelburne spoke rather darkly, that he thought the Resolutions, if meant to be general, ineffectual; if levelled only at Boston not improper.

When the Resolutions were agreed to, the duke of Bedford moved his Address; which was seconded by lord Holdernesse.

Nobody much objected, but the duke of Richmond, and he was not very clear. He seemed to think governor Barnard might misconstrue that to be treason which was not so. But he was answered by lord Weymouth, that the governor was only to transmit informations, and whether the riot were treasonable or not would be judged of here.

Lord Shelburne seemed to dislike the Address, and thought the administration negligent if they had not already sent over directions to take informations upon treasonable practices, in which no time should be lost.

He and lord Hillsborough had some sparring about the conduct of governor Barnard.

The duke of Grafton spoke as a minister for maintaining the right of parliament, and that he desired every body to understand that by these Resolutions and Address parliament had precluded itself from respecting any of the acts for laying duties in the colonies for this session.

Lord Hillsborough had before declared, that for commercial reasons he should be for repealing one of them, when the point of right was no longer in dispute.

Lord Lyttelton and lord Mansfield were not there: the Lord Chancellor was silent.

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set up a new and unconstitutional authority, independent of the crown of Great Britain.

8. "That the elections, by several towns and districts in the province of Massachusets Bay, of deputies to sit in the said convention, and the meeting of such convention in consequence thereof, were daring insults offered to his Majesty's authority, and audacious usurpations of the powers of government."

Then the following Address to his Majesty, was moved by the duke of Bedford:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal [and Commons] in parliament assembled, return your Majesty our humble thanks for the communication your Majesty has been graciously pleased to make to your parliament of several papers relative to public transactions in your Majesty's province of Massachusets Bay.

"We beg leave to express to your Majesty our sincere satisfaction in the measures which your Majesty has pursued for supporting the constitution, and for inducing a due obedience to the authority of the legislature; and to give your Majesty the strongest assurances that we will effectually stand by and support your Majesty in such farther measures as may be found necessary to maintain the civil magistrates in a due execution of the laws within your Majesty's province of Massachusets Bay; and as we conceive that nothing can be more immediately necessary, either for the maintenance of your Majesty's authority in the said province, or for guarding your Majesty's subjects therein from being farther deluded by the arts of wicked and designing men, than to proceed in the most speedy and effectual manner for bringing to condign punishment the chief authors and instigators of the late disorders, we most humbly beseech your Majesty, that you will be graciously pleased to direct your Majesty's governor of Massachusets Bay to take the most effectual methods for procuring the fullest information that can be obtained touching all treasons, or misprision of treason, committed within this government since the 30th day of December last, and to transmit the same, together with the names of the persons who were most active in the commission of such offences, to one of your Majesty's principal secretaries of state, in order that your Majesty may issue a special commission for enquiring of, hearing, and determining, the said offences within this realm, pursuant to the provisions of the statute of the 35th year of the reign of king Henry the eighth, in case your Majesty shall, upon receiving the said information, see sufficient ground for such a proceeding."

The above Resolutions and Address being agreed to by the Lords, were sent down to the Commons for their concurrence.

1769.

January 25. Mr. Alderman Beckford offered to the Commons a Petition, purporting to be a petition of the major part of his Majesty's council of the province of Massachuset's Bay, signed Samuel Danforth, president of the council, in the name of the major part of the council aforesaid. And it appearing to the House, that the said Petition was not passed in a legal assembly of the council of his Majesty's province of Massachuset's Bay, and that no person was, or could be, authorised to sign the same, as president of the council of the said province; it was ordered, that the said Petition be brought up not as a Petition of the major part of the council of his Majesty's province of Massachuset's Bay, but as a Petition from Samuel Danforth, on the behalf of the several individual members of the said council at whose request he signed the same. Then the said Petition was brought up, and read; setting forth,

"That his Majesty's most dutiful and loyal subjects, the council of the said province, being rendered unable, by the dissolution of the general court, to address this House in their legislative capacity, the petitioners, the major part of the said council, the other members living too remote to join with them, beg leave to do it, on a subject of the greatest importance, not only to that province and the colonies in general, but to Great Britain in particular, and humbly to represent to this House, that the first settlers of New England, more attentive to religion than worldly emolument, planted themselves in that country with a view of being secure from religious imposition, and not with any expectations of advancing their temporal interests, which the nature of the soil forbad them to indulge: and that they obtained a patent of that country from king Charles the 1st, which though vacated in

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the unhappy times of James the 2nd, revived in the present charter of the province, which was granted in the succeeding glorious reign of king William and queen Mary, who, by said charter, confirmed to their subjects in that province divers important rights and privileges, particularly all such as are essential to, and constitute the peculiar happiness of British subjects, founded in the immutable laws of nature and reason, and inseparable from the grand and ultimate end of all government, the security and welfare of the subject, and which have been enjoyed till of late without interruption; and that, from the length and severity of the winters, the inferiority of the soil, and the great labour necessary to subdue it, they underwent incredible hardships; and, that, besides the climate and soil, they had to contend with a numerous and barbarous enemy, which made frequent inroads upon them, broke up their exterior settlements, and several times had nearly accomplished their utter destruction; by means whereof, they were kept in perpetual alarms, and their country made the scene of rapine and slaughter; and that nothing but the most invincible fortitude, animated by the principles of religion, and the warmest attachment to that civil liberty which the British constitution so happily defines and secures, could have enabled them to sustain the hardships and distresses that came upon them by those causes; nothing less could have induced them to persevere in the settlement of a country, from which, in its best estate, they had only to expect a scanty subsistence, and that in consequence of their unremitted labour; and that, by that labour, those hardships and distresses, they not only dearly purchased their settlements there, but acquired an additional title, over and above their common claim as men and as British subjects, to the immunities and privileges granted them by charter, and which they have transmitted to their children and successors, the present inhabitants, his Majesty's faithful subjects of that province; and that the present inhabitants, though more happily circumstanced than their ancestors, and though some among them, especially in the trading towns, may live in affluence, yet, from the operation of the same causes, the length and severity of the winters, and the stubbornness and infertility of the soil, are now able, with all their labour to obtain but a comfortable, and many of them but a slender support for themselves and families; their clothing, of which in that cold climate more is required than otherwise would be necessary, and which, some small part made by themselves only excepted, is made of the woollens and other manufactures of Great Britain, the other necessary articles of subsistence, and the yearly taxes upon their polls, and on their real and personal estates, requiring the whole, or nearly the whole, produce of their lands; and that by their means his Majesty's dominions have been enlarged, his subjects increased, and the trade of Great Britain extended, all in a degree envied by her enemies, and unexpected by her friends, and all without any expence to her till the late war; and that in the late war, without recurring to the former expeditions against Canada, to the reduction of Nova Scotia in 1710, to the preservation of it several times since, to the conquest of Louisbourgh with its dependent territories in 1745, the reddition of which was esteemed by France an ample equivalent for all her conquests, during, on her part, a successful war, and gave peace to Europe; upon his Majesty's requisitions, and the requisitions of his royal grandfather, this province in the last war yearly raised a large body of troops, to assist in conjunction with other colony troops, in reducing the French power in America, the expence whereof was very great, and would have been insupportable, had not part of it been refunded by parliament, from a conviction of the inability of that province to bear the whole; and that the loss of men in the several campaigns of that war was great, and to so young a country very detrimental, and could not be compensated by grants of parliament, and to which those grants had no respect; and that the acquisition of so large a part of America by his Majesty's arms, though a great national good, and greatly beneficial to the colonies, as thereby they have been freed from the hostilities of the French, and, in a good measure, of the Indians that were under their influence, has, in divers respects, operated to the detriment of the colonies, particularly by diminishing the value of real estates, and drawing their inhabitants from them, to settle the new-acquired territories; and that the said acquisitions have occasioned new and increasing demands for the manufactures of Great Britain, and have opened to her sources of trade, greatly beneficial, and continually enlarging, the benefits of which center in herself, and which, with the ex-

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tensive territories acquired, are apprehended to be an ample equivalent for all the charges of the war in America, and for the expences of defending, protecting, and securing, said territories; and that that province in particular is still in debt, on account of the charge incurred by the late war; and that the yearly taxes, excepting the present year, on which no public tax has been yet laid, by reason of general valuation through the province, which could not be completed before the dissolution of the late general assembly, but which will probably be resumed when a new assembly shall be called; and that the yearly taxes upon the people for lessening said debt, though not so great as during the war, are nevertheless with more difficulty paid, by reason of the greater scarcity of money in the colonies, owing to the balance of their trade with Great Britain being against them, which balance, exclusive of the operation of the several acts of parliament, taxing the colonies, by laying certain duties for the purpose of raising a revenue from them, drains them of their money, to the great embarrassment of their trade, the only source of it; and that that embarrassment is much increased by the late regulations of trade, and by the Tax Acts aforesaid, which draw immediately from trade the money necessary to support it, on the support whereof the payment of the balance aforesaid depends; and that the said Tax Acts, operating to the detriment of the trade of the colonies, must likewise operate to the detriment of Great Britain, by disabling the colonists from paying the debt due to her, and by laying them under a necessity of using less of her manufactures; and that, by the use and consumption of the manufactures of Great Britain, which are virtually charged with most of the taxes that take place there, the colonies pay no inconsiderable part of those taxes; and that, by several acts of parliament, the colonies are restrained from importing most of the commodities of Europe, unless from Great Britain, which occasions her manufactures, and all commodities coming from her, to be dearer charged, which is equivalent to a tax upon them; and that the colonies are prohibited sending to foreign markets many valuable articles of their produce, which giving to Great Britain an advantage in the price of them, is a proportionable and a further tax upon the colonies; and that the exports of the colonies, all their gold and silver, and their whole powers of remittance, fall short of the charged value of what they import from Great Britain; and that, if it be considered what difficulties the colonies encountered on their first settlement; their having defended themselves, Nova Scotia and Georgia excepted, without any expence to Great Britain; the assistances given by them in the late war, whereby the empire of Great Britain is so greatly extended, and its trade proportionably increased; the diminution of the value of their estates, and the emigration of their inhabitants, occasioned by that extension; the loss of men in the said war, peculiarly detrimental to young countries; the taxes on them to support their own internal government; the share they pay of the duties and taxes in Britain, by the consumption of British manufactures for which such valuable returns are made; the restraints upon their trade, equivalent to a tax; the balance of trade continually against them, and their consequent inability to pay the duties laid by the acts aforesaid: if those facts be considered, the petitioners conceive it must appear, that his Majesty's subjects in the colonies have been, and are, at least as much burthened as those in Great Britain; and that they are, whilst in America, more advantageous to Great Britain, than if they were transplanted thither, and subjected to all the duties and taxes paid there: and that the petitioners beg leave to lay their representation before this House; humbly praying a favourable consideration of it; and that the charter rights and privileges of the people of that province, and their invaluable liberties as British subjects, may be secured to them; and that the several acts of parliament made for the purpose of raising a revenue in America, be repealed."

The question being put, that the said Petition be referred to the committee of the whole House, to whom it is referred to consider further of the several papers which were presented to the House, by the lord North, upon the 28th of Nov. last, the 7th of Dec. last, and the 20th of this instant January, by his Majesty's command: the House divided; Yeas 70; Noes 133. So it passed in the negative. And the Petition was ordered to lie upon the table.

January 26. Sir George Saville presented a Petition from William Bollan, esq., of Boston, in the province of Massa-

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chusetts Bay: praying, That the concurrence of the Commons, in the Resolutions and Address communicated by the Lords at a conference, may not take place. On the question being put, That the Petition be brought up, a long debate ensued. It was argued by the Ministry that it was very long, and would take up much time to read twice over; that it contained law arguments, which the House were not good judges of, and that it was presented at an unusual time, being whilst a resolution only of the House was debating.

The Opposition had clearly the advantage in argument; the length of a petition being no reason against the complaint of a subject reaching the Commons, who alone could redress the evil; that the arguments it contained could be no objection, if good ones; if bad ones the House would pay no sort of attention to them, and that no time was so proper to petition as when a grievance was about to affect the subject by resolutions. The right of the subject to petition was indisputable, the Petition was regular in every respect, and the particular time it was presented, the only time it could have any effect. On the division, there appeared for the ministry 136, against 105.

The grand debate then commenced on the North American Affairs. The preceding Resolutions and Address, sent down from the Lords, were produced; and the concurrence of the Commons was moved thereon. The debate was very fine indeed. Lord North, the Attorney and Solicitor General, Mr. Price, Mr. Hussey, Mr. Dyson, were for the question; sir George Saville, Mr. Burke, Mr. Dowdeswell, colonel Barré, and Mr. Grenville, Mr. Beckford, Mr. Fuller, and governor Pownall, against it.

In the course of this debate,

Governor *Pownall* went into a particular examination of the Resolutions in the light of a bill of indictment proposed to be found by a grand inquest. He shewed that the charge contained in the first Resolution went upon a total mistake of the evidence brought to support it, so gross as to accuse the House of Representatives at Boston, of coming to a positive resolution which had received its negative in that very House, and was not upon their journals, although the resolution proposed by the House of Commons referred to it as if really there existing: that the charge brought against the council and magistrates in the third and fourth, that they had abandoned the town to riots, which continued for a considerable time, was not a true bill—for the riot was a sudden, unpremeditated, temporary affray, and over before the magistrates could interpose, and that they did afterwards enter into an enquiry of the causes and authors of those disorders; on the seventh and eighth resolutions, charging the people of the province with conspiring to usurpations of the powers of government and the setting up of new and unconstitutional authority independent of the crown of Great Britain by "issuing writs" to call a convention of the states. He shewed that those who drew this Resolution, did not know what a writ was—he shewed what a writ was, by producing the form of one as settled by the law of that country, and confirmed here by the crown—he allowed that if the select-men of Boston had issued writs, it would have been an usurpation, if not treasonable—Having so far convinced the ministry-gentlemen, that their charge was false so as that they withdrew it, by lord North's proposing to amend this resolution with the words "writing letters," instead of the words "issuing writs." Governor Pownall shewed that the select-men were authorized by the laws of their country, confirmed by the crown, to write such letters, desiring other towns to appoint committees to convene with their committee. He then shewed that the draughtsmen of those proposed resolutions had equally misunderstood, from total ignorance, the nature of the committees which met, when they called them deputies, and considered the "convention of such committees" which was warranted by law, as a "convention of states," which would have been treasonable—he shewed what were deputies, what committees—and not only justified the meeting of the convention, but approved their conduct when met as highly meritorious.

Mr. *Dyson* endeavoured to parry his first objection to the first resolution, by referring to the amendment respecting the date of the assembly's resolve. But the governor still insisted that there was "no such resolve existing;" however they satisfied themselves with this alteration, and put the question.

Lord *Barrington* also, with a degree of warmth and passion not usual, endeavoured to defend governor Bernard's letters and the official resolves.

Mr. *Burke* said, that the gentleman who

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made the objection had insisted "that there was no such resolve as the resolution brought its charge against," and hoped the ministry would not draw the House of Commons "into a positive error in fact." They endeavoured to explain this away, but,

Mr. *Grenville* got up and said, that this was a short question, between the gentleman who had made the objection and the ministry; if there was any such resolution on the journals of the Boston Assembly he desired it might be read. Others called out 'read, read.' This threw the whole bench of ministers and clerks into a most ridiculous confusion, as they could not, when now called upon in the face of the House, find any such: the business of the House stood still; one side laughing, the other side in the most shameful perplexity, for more than a quarter of an hour. Under this state of perplexity,

Mr. *Baker* moved that the House should adjourn, to give the gentlemen time to produce their evidence.

Governor *Pownall* then shewed them how their mistake arose; but as they were not willing to own it, they rested on Mr. Dyson's amendment. And the chorusmen, who at proper times call for the question, helped them out at this dead lift, by an incessant recitative of the words, "Question, question, question."

At length, at four o'clock in the morning, the whole House in confusion, laughing, &c. the Resolutions and Address were agreed to. Upon which a member remarked, it was indecent to bring us resolves ready cut and dried, only for the drudgery of passing them: it was indecent to do it in the confused manner we did it: it was indecent to do it without evidence, and highly so to answer all arguments with "The question! the question!"

Notwithstanding the powerful majority by which these Resolutions and the Address were carried through, no measures were ever opposed with more firmness, nor no subject more ably discussed, than this was through the long course of debate with which it was attended. As both the right and the propriety of American taxation, were brought within this discussion, the arguments under these heads have already been given, on the occasion of laying on, and of the repeal of the stamp duties. New ground was however taken, upon the inutility of the late revenue laws, their inexpediency, the measures pursued by administration for the execution of them, and some parts of the address.

It was said, that the inutility of these laws was so evident, that the ministers did not even pretend to support them upon that ground, but rested their defence upon the expediency of establishing the right of taxation. That this right had been sufficiently established, and the dignity and supreme authority of the legislature properly asserted, by the declaratory act of the 6th of his present Majesty, as well as by a multitude of revenue laws passed in the former reigns, and even in this. These laws answered all the good purposes for which the late law is pretended to have been passed, at the same time they excited no alarm, and did not drag after them any part of that long train of evils, of which the late act had already been productive. That with all the consequences of the Stamp Act before their eyes, a full conviction of which (or at least a pretence of such a conviction) induced parliament the year before to repeal it, and that tranquillity at least had been the consequence of that repeal, wantonly to make another experiment of the same nature less productive of revenue, but more vexatious in its mode, and more pernicious in its effects, than the former, was, to call it no worse, such a degree of absurdity as could scarcely be equalled That loaded with all the destructive consequences which could attend the most general and comprehensive tax upon America, these laws in fact only taxed the mother country; and that the laying of duties upon British commodities and manufactures landed in the colonies, was in effect, granting premiums to excite the industry of the Americans, and to put them upon raising the one, and rivalling us in the other. In these censures the Rockingham and Grenville parties (supposed on this point to be irreconcilable) entirely united. They urged, that admitting the repeal of the Stamp-Act to have been an improper measure, yet, from the moment of that repeal, the policy of the mother country was altered, though her rights were not abridged. An attempt to tax the colonies no longer stood upon its ancient footing of wisdom and practicability.

That it was now the mode, with those who had been the original cause of all the present disorders in America, to represent the people there as nearly in a state of rebellion, and thus artfully endeavour to make the cause of the ministry the na-

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tional cause, and to persuade us, that because the people, aggravated by a series of blunders and mismanagements, and emboldened by the weakness and inconsistency of government, have shewn their impatience in the commission of several irregular and very indefensible acts, that they want to throw off the authority of the mother country. That indeed it was too true, that popular prejudices were very dangerously meddled with, and that therefore all wise governments made great allowances for them, and when there was a necessity of counteracting them, always did it with the greatest art and caution. That the temper of the Americans, in this respect, was well known from the former trial; but what means were used to soften it, or to dispose them more favourably to this experiment? A number of duties were laid on, which derive their consequence only from their odiousness and the mischiefs they have produced; and an army of custom-house officers, who from their novelty, an opinion that the taxes were only created for them, as indeed they could scarcely answer any other purpose, and from many other circumstances, were, if possible, more odious than the duties, were sent to collect them. That this measure, as might have been expected, not having proved sufficient to establish the success of the experiment, another army, still more odious, and much more dangerous, was sent to enforce it. It was said, that some of those who were the framers, or under whose auspices these duties had been laid on, were themselves the zealous supporters, and at the head of that opinion, which totally denied the right in the legislature of any taxation in America; that their names had been held up in the colonies as objects of the highest veneration, and their arguments were made the foundation of whatever was there understood to be constitutional writing or speaking: was it then to be wondered at, that the Americans, with such authorities to support them in opinions, which were, in the highest degree, flattering to their importance, should, in that warmth of imagination, fly into the greatest extravagancies upon a direct and immediate violation of what they were taught to consider as their most undoubted and invaluable rights? or can we be surprized, that such unaccountable contradictions between language and conduct, should produce the unhappy consequences which we now experience?

That part of the Address which proposed the bringing of delinquents from the province of Massachusets, to be tried at a tribunal in this kingdom, for crimes supposed to be committed there, met with still greater opposition than the resolves, and underwent many severe animadversions. Such a proceeding was said to be totally contrary to the spirit of our constitution. A man charged with a crime, is, by the laws of England, usually tried in the county in which he is said to have committed the offence, that the circumstances of his crime may be more clearly examined, and that the knowledge which the jurors thereby receive of his general character, and of the credibility of the witnesses, might assist them in pronouncing, with a greater degree of certainty, upon his innocence or guilt. That as the constitution, from a conviction of its utility, has secured this mode of trial to every subject in England, under what colour of justice can he be deprived of it by going to America? Is his life, his fortune, his happiness, or his character, less estimable in the eye of the law there, than here? Or, are we to mete our different portions of justice to British subjects, which are to lessen in degree, in proportion to their distance from the capital? If an American has violated the laws by a crime committed there, let him be tried there for the offence; but let him not be torn above 3,000 miles from his family, his friends, his business, and his connections; from every assistance, countenance, comfort, and counsel, necessary to support a man under such trying and unhappy circumstances, to be tried by a jury who are not, in reality, his peers, who are probably prejudiced, and who may perhaps think themselves in some degree interested against him.

It was said, that it would be difficult in the last degree, if not utterly impossible, for the accused person to bring over the necessary evidence for his vindication, though he were entirely innocent; that it would require a very affluent fortune to bring from Boston to London all the witnesses who would be indispensably requisite; that many others may be thought essential at the time, who were not so, and who would add equally to the expence, and others overlooked or forgot, who might be of the greatest consequence; that he must also bring reputable persons to testify the general tenor of his conduct and behaviour, though they could, per-

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haps, give no evidence as to the particular fact with which he was charged. That, on the other side, the witnesses against him, supported by the countenance and protection of government, maintained at the national expence, and sure of a compensation for their loss of time, besides, perhaps, the hopes of future reward and provision, would not only be easily collected, but that it was to be feared too many would think it an eligible employment, and become eager candidates for it.

That in this situation, charged with a crime against the authority of the mother country, the judges who are to determine his fate, are the people against whom he is supposed to have transgressed; those who have constructed the act with which he is charged, into a crime, whose passions are heated, and who are at once parties, accusers, and judges. That if he is even acquitted, the consequence will probably be his total ruin, as, independent of the great loss of time that will attend the prosecution, few fortunes will be able to bear the consequent expences; to say nothing of the loss of health, and the numberless vexations and oppressive circumstances that will attend so long a confinement, in a vain struggle between the impotence of weakness, and the coercive exertions of power. Thus, it was said, that the life, fortune, and character, of every man who had the misfortune to become obnoxious to the governor of a province, would, in some degree, lie at his disposal; as pretences on which to found a charge could never be wanting, and the sort of evidence necessary to give a colour to the prosecution, might be easily found.

It was represented as a strange measure, upon this occasion, to drag out of the oblivion in which it had so long deservedly lain, and in which it should have continued for ever buried, an obsolete law, which was passed in one of our most cruel and tyrannical reigns, only to answer a temporary and arbitrary purpose. That our constitution was not then, in any degree, defined; that, such as it was, it continually underwent every flagrant violation, which the whim or cruelty of a capricious tyrant was capable of directing; that it would be much to our honour, if many of the public acts of that reign could be totally forgotten: and that it was hoped, that no part of the line of public conduct then pursued, would be proposed as a model for the present times. It was observed, that we had not a colony existing at the time of passing that law; that they consequently could not be intended by it, and that an attempt now to comprehend them in it, was not more oppressive to them than dangerous to us. But if this Address, taken in one view, presented a very disadvantageous idea of the equity and moderation of our government, in another view it reflected no less on the wisdom of the British parliament. They contended that the execution of the project was utterly impossible; nay, that it never was intended to be carried into execution; that therefore it could serve no other purpose, than to furnish matter to the leaders of sedition in the colonies, further to exasperate the populace, without conveying any sort of terror, which might check them in their dangerous practices.

Such were some of the arguments made use of in the course of these debates, by those who did not approve of the late and present measures pursued in regard to our colonies, and who, of course, opposed the Resolutions and Address in question. Many of the most forcible of these arguments were but little, if at all replied to on the other side; nor was the utility nor expediency of the late revenue laws much defended. The ministers (from whatever cause) were even unusually cold and languid, in the support of the Resolutions, and the Address which they had proposed for executing the law of Henry 8; and when they were asked, with a degree of insult, which of them would own himself the adviser of that measure, they severally declined to adopt it. The ground principally and most ably taken to justify the taxes objected to, as well as to shew the propriety of the measures now under consideration, was the violent conduct of the Americans; which put government under a necessity of using methods, however disagreeable to itself, absolutely necessary for the support of its dignity, and of the legislative authority.

It was said, that the repeal of the Stamp Act, instead of producing the hoped-for effects of gratitude, for the tender consideration shewn to their supposed distresses, and of a due submission to government, had, on the contrary, operated in such a manner on the licentiousness of the Americans, that it became highly necessary to establish some mark of their dependance on the mother country. That the late duties, so much complained of, were, for one of the reasons now objected to them, the smallness of their produce,

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chosen as sufficient to answer that purpose, at the same time that they were the least oppressive that could be thought of, were not internal taxes, and that their whole produce was to be applied to the support of their own civil establishments. That the republican principles, and licentious disposition of the inhabitants of the province of Massachusets Bay, being operated upon by some factious and designing men among them, broke out into acts of the most daring insolence, and the most outrageous violence, which sufficiently shewed the original necessity of making them sensible of their dependence on the British legislature; that by the language held forth, and the writings published among them, they seemed rather to consider themselves as members of an independent state, than as a colony or province belonging to this country.

That from the ill-judged system upon which the government of that province had been originally established, the council was appointed by the assembly, and the grand juries are elected by the townships; so that these factious men having got a great lead in the assembly, and being themselves the rulers of the popular phrenzy, guided and directed as they liked the whole civil government; so that all justice and order were at an end, whereever their interests or passions were concerned. That in these circumstances, the populace freed from all legal restraints, and those that should have been the supporters of government, and the conservators of the public peace, setting themselves the first example of contempt to the one, and giving every private encouragement to the breach of the other, proceeded at length to the commission of such acts as, if not now deemed downright rebellion, would in other times have been judged and punished as such; and which, in any construction of the term, can be considered but very little short of it. That it was then high time for government to interfere, and effectually to curb disorders, which, if suffered to proceed any farther, could no longer be considered by that name: that the example set by the people of Boston, and the rash and daring measure adopted by their assembly, of sending circular letters to the other colonies, had already produced a great effect; and if not checked, was likely to set the whole continent in a flame; that accordingly some ships of war and troops were sent to Boston, who, without bloodshed, or coming to any violent extremity, restored order and quiet to that province.

That nothing but the most spirited and vigorous resolutions, supported by a succession of measures equally firm and vigorous, could bring the colonies to a proper sense of their duty, and of their dependence upon the supreme legislature. That the spirit which prevailed in Boston, was so totally subversive of all order and civil government, and the conduct of the magistrates had left so little room for any hope of their properly fulfilling their duty during the continuance of the present ferment, that it became absolutely necessary to revive and put in execution that law of Henry 8, by which the king is empowered to appoint a commission in England, for the trial there of any of his subjects guilty of treason in any part of the world. That unless this measure was adopted, the most flagrant acts of treason and rebellion might be openly committed in that province with the greatest impunity, as the civil power was neither disposed, nor could take cognizance of them. That the persons who were guilty of these crimes, and who had already caused so much trouble and confusion, were no objects of compassion, for any particular circumstances of expence or trouble that might attend this mode of bringing them to justice, which were only to be considered as a small part of the punishment due to their crimes: that it was ungenerous to suppose, that government would make an improper use of this law by the harassing of innocent persons; and that there was no reason to question the integrity or the impartiality of our justice. Indeed they observed, that it was rather unlikely the act would be executed at all; as they were in hopes that such a seasonable shew of so much vigour and lenity, would operate to bring the people of the colonies to a sense of their duty, and to a cessation from their former seditious practices. Such were the arguments and hopes of administration in proposing, and of parliament in adopting this system.*

Feb. 8. The Report from the Committee concerning North American affairs was brought up.

Mr. *Rose Fuller* proposed an amendment upon the Address, and spoke long and well. A debate ensued, in which the arguments were the same as before.

Governor *Pownall* repeated his objec-

* See Annual Register, 1769, p. 55.

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tions against the resolves, but at present confined his opposition to the proposed address; and said, If, as I have before proved, even to the conviction of ministry themselves, that the resolves were 'no true bill,' for they had been forced to acknowledge that the facts asserted in them were not true, and not grounded, even though they determined to pass them as true and grounded—if this was the state of the case, and that it was so, I appeal to the sense and honor of the House, then, considering this Address as a presentment on those occasions, I must of course be against it; but I am not only against it as a presentment upon a charge which I think no true bill, but as it goes to the advising the crown to a proceeding directly contrary to that law, and to those rights which I think the people of the province of Massachuset's bay are entitled to—as it goes to the advising the crown to a proceeding which, consistent with its own acts, it cannot go into, and which I think none of his Majesty's counsel ever will advise him to enter into; at least, such advice would put his Majesty under such difficulty as no one man would wish to put another. And what I am going to say is the foundation of this opinion, which I wish and call upon the crown lawyers to attend to and consider. The crown, in the 8th of William the 3rd, gave its consent to an act of the province of Massachuset's Bay, for regulating trials for high treason within that province, according to an act of parliament of the 7th of William. I know that no provincial act whatever, even with the consent of the crown added to it, can alter or supersede any act of parliament—I know, and will allow, that this act does not supersede or repeal the 35th of Harry the 8th—but so far forth as the issuing this special commission for trying of treasons 'here in England under that Act,' be a measure which the King may or may not take—I do say, that the crown having given its consent that the people of the province of Massachuset's Bay 'shall be tried within that province, according to the 7th of William,' so far as that will or pleasure can be bound by that consent so given, never will or can, consistent with the acts of the crown, issue such commission to bring any delinquent out of the province, and to try him here upon the act of Harry the 8th.

I suggested this before in the form of doubt, in hopes it might have drawn forth some answer. I do now pronounce peremptorily and positively, that the crown neither will or can issue such commission, and I call upon the crown lawyers to answer this, if they have answer to give. The people have thought themselves aggrieved in having the cases of their property determined in the court of Admiralty, without the benefit of juries—perhaps that complaint may not be entirely founded in law; but if they think so, and if this procedure, by which they may, without the presentment of an inquest of twelve lawful men, be taken into custody, and in that custody sent over hither to be put upon their trial for their lives, should strike their hearts upon this old sore, how deeply must it wound them, and to what a dangerous state of desperation may it not drive their minds? If they consider that they may be presented by their governor, a single man, and in consequence of that presentment taken into custody, and sent prisoners 3,000 miles, to be put upon their trial, which, of itself, should they be acquitted, is a punishment of the severest and most cruel nature: if they consider that they are thus deprived of the common liberty which we enjoy, of not being presented and put upon trial but by the inquest of twelve lawful men of our country—to what predicament must they think themselves reduced?—I own I dread the consequence, if the Americans should feel that they are in that predicament; but I am comforted, because I am sure they never will feel it, as I am convinced that such commission never will nor can be issued, that such proceedings never will be nor can be carried into execution.

I will, therefore, next consider this measure connected with the military manœuvres in America—'as a political measure,' planned and designed to enforce the execution of the revenue laws in that country. To be able to judge of the effect of such measure, it will be necessary to state the case to which it is applied.

On one hand you have your declaratory law—your revenue laws as the exertion of the declared right—you have your commissioners to execute these laws—and the military 'to enforce' this execution. On the other hand, the Americans do universally, invariably, and unalterably declare that they ought not to submit to any internal taxes imposed upon them by any legislature wherein they have not representatives of their own election. On this principle they oppose such taxes by their petitions and remonstrances 'only, as

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yet;" but there is something threatening in the bad temper and ill blood which seems to be forced up—so that the issue is well nigh brought to force. The people of that country and the King's troops are, as it were, set in array against each other. The sword indeed is not drawn—but the hand is upon it. The word for action is not indeed yet given, but mischief is on tip-toe; and the slightest circumstance would in a moment throw every thing into confusion and bloodshed. And if some "mode of policy" does not interpose to remove this exertion of military power—the union between Great Britain and North America "is broken for ever"—unless (what is worse) "both are united in one common ruin."

Where the whole spirit and bent of a people, who have the powers of government within themselves, is fixed and determined against a tax—experience and common sense will convince you, that no civil power, no civil coercion, will ever assess or collect it.

It will be found also in the trial, fact, that no military force can do this—it never did, so long as the "forms" only of government remained: it cannot assess or collect: it may raise a contribution by "military execution"—but that is not "government," it is "war."

Here, Sir! I must beg to mark the distinction between the application of military force in this case, and the application of it in the usual cases which arise in Great Britain.

Military force is never applied, but when called for by the civil magistrate—never acts, but in aid of the civil magistrate—and under the orders and command of the civil magistrate: but if they are sent to Boston, the civil magistrate the mean while protesting that they are not wanted; if they are sent, not in aid of the civil magistrate, but as it were to force him to act: are not put under his orders, but take possession of his jurisdiction, and take the command, that is not government, it is war.

If the people are indeed in rebellion, it is necessary war: but if they neither make nor intend any opposition by force or arms; if they have continued, and do continue, to pay the duties, what is there for the troops to do? However the people may submit, in these points, in fact, the troops will never convert them to the opinion of the right.

And here I cannot withhold an observation which a friend of mine in that country makes on this occasion: "if you mean to govern the country by the aid of military force, you have not sent a sufficient number of troops; if you do not mean this, you have already sent too many." But, thank God, resistance by force and arms is not the resistance which you have to guard against. The people of America are husbandmen and merchants; who have lived by their dependence upon, and under the protection of Great Britain; are unaccustomed to arms; are not trained up in a military spirit; do not (to use an expression of their own) feel bold to resist by arms: yet, if you attempt to force taxes against the spirit of the people there, you will find, when perhaps it is too late, that they are of a spirit which will resist all force; which will grow stronger by being forced; will prove superior to all force, and ever has been unconquerable: they are of a spirit to abide, nay, to court, persecution: and if amongst other propositions which they have taken up, they should once take it into their heads that they are under a state of persecution, that spirit of enthusiasm which is of their temper, and of their very nature, will arise, and every mischievous consequence, in every extreme, will accompany it.

This spirit is not dead in them; it is only dormant: the utmost care and skill of those who lead them, either in civil or religious matters, is employed to restrain and keep it down. If this spirit should once take fire (and believe me, Sir, it is in such a state of inflammability that the smallest spark would give it fire), it will break out into a flame, which no reason, no prudence, no force can restrain: those who yet retain some lead, and have kept matters from running to extremities, to whom the people still listen, will either lose that lead, or will take the lead of this spirit when it shall be once gone forth; and if the ministers (whom we here call the clergy) once fall in with this spirit; if the people once call upon them, they must take the lead, and if they do, the people (to use their own phrase) will be led by Moses and Aaron, by the civil and religious, under a bond of unity that no factions will divide, no force can break.

The spirit of their religion, or if you please so to call it, of fanaticism, will, like Moses' serpent, devour every other passion and affection: their love for the mother country, changing its nature, will turn to the bitterest hate; their affectation

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of our modes and fashions (the present source of great part of our commerce), will become an abomination in their sight.

That spirit which led their ancestors to break off from every thing which is near and dear to the human heart; from every connection which friendship, relation, blood could give; which led them to quit every comfort that a settled and civilized country (their own native country) could afford; and to encounter every difficulty and distress, which a wild wilderness of savages could oppose to them, to struggle even for their existence; that spirit, equally strong and equally inflamed, has but a slight and trifling sacrifice to make at this time; they have not to quit their native country, but to defend it; they have not to forsake their friends and relations, but to unite with and to stand by them, in one common union. The only sacrifice they have to make is that of a few follies and a few luxuries. It is not necessity that is the ground of their commerce with you; it is merely the affection of your modes and customs; the love for home, as they call England, that makes them like every thing that comes from thence: but passion may be conquered by passion, and they will abominate as sincerely as they now love you; and if they do, they have within themselves every thing which is necessary to the food, raiment, or the dwelling of mankind, and have no need of your commerce.

But that gentlemen may not think this to be mere harangue, I will come to particulars. They have a great surplusage of hides and leather; hides are even part of their exports. They have peltry, they have wool, linen, and cotton. They work up all these and have home-made and home-spun, sufficient for their clothing. They have fish, game, beef, mutton, and every other article, at about one-third of the price which we pay here; they have iron and copper which they cast and work up in every form that is necessary. The only difficulty which they have at first to labour against, will be the manufacture of hardware. But when I tell the House that they do already make all the implements of husbandry better than those which come to them from England, and that the husbandmen buy such, in preference to those made in England; they will see how large a stride they have taken towards the establishment of this branch of business; and (overloaded, from various reasons, as every branch of our manufactures is with manufacturers) if a stop be put to them but for one year, the tide is upon the turn; the manufacturers with the turn of that tide will go over in shoals to America, as they once came over hither from the Netherlands. If it be not the humour of the House to bear to be told this now, they will remember it hereafter.

In one word. If this spirit of fanaticism should once arise upon the idea of persecution; those people whom Great Britain hath to this hour drawn as it were with a thread, and whom it has governed, as you have been ingeniously told, with a little paper and packthread, you will not for the future be able to govern it with a rod of iron; and every benefit which this country has derived from that country will be stopped at every source. If it be not the humour of the House to believe this at present, I only beg they will remember it has been said, and that they are forewarned of it.

If this then be the state of this business, and these the consequences of proceeding by exertion of force instead of measures of policy; and if, after all, force will not and cannot produce the effect aimed at, but will produce such directly contrary and pernicious effects; if after alienating the people of the colonies, after dissolving the union that is between us, after breaking all communication of commerce between us; it shall be found impossible to tax a people who have the powers of government within themselves, unless by and with their own consent, either in the grant, or by their acquiescing in the grant with their consent to assess and collect such tax; if this be the case, there remains no other alternative, but to adopt some mode of policy, that will carry that consent along with the power of government.

But why do I endeavour, under the discouragement which gentlemen give to any reasoning, any consideration of this matter; why should I endeavour to obtrude my poor reasoning so ill received? Why should I talk of adopting modes of policy, when the shorter way of the question and decision, the short way of force, seems already adopted? Nevertheless, even under this discouragement, if gentlemen attend, I will mark out that mode of policy by which every evil may be avoided, and all again be restored to peace, to union, and government. This mode lies in the nature of the business, in the actual state of things, it is the most easy to be understood, the most easy to be executed, nay, the only one that is practicable.

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What I would wish to suggest to the consideration of the House, and what I know would succeed, is this plain and simple advice, that you should not stir up, but wave, all questions which become mere articles of faith; that you should make no innovations in practice, nor suffer any encroachments to be made on government; that you should take the ground that you now actually stand upon, and that government should act upon that ground, as it hath done invariably for one hundred and sixty years past, from the first establishment of the colonies.

This would heal that union between the mother country and her colonies, which hath been vitiated: would restore that communication of commerce which otherwise will be cut off: would revive again the spirit of obedience, and re-establish the power of government.

Truth lies in a very narrow compass. I should not therefore take up much time in explaining to the House this plain and practical proposition; I see the House is impatient to decide; but it is for that very reason, seeing the danger of the decision, that I labour to obtrude and even force, against their inclinations, my poor opinion to their consideration; I do not attempt or pretend to amuse and entertain them. I cannot expect their attention; it is from the importance of the subject that I beseech their patience.

From the first establishment of the colonies, till within three or four years past, the people have enjoyed and exercised the power of taxing themselves internally—of giving and granting their own money. First, For the support of government within the limits and precincts of their respective jurisdictions: Secondly, For the aid of the mother country, whensoever called upon or required for that special purpose.

In which the mother country never interfered. On the other hand, the mother country has uninterruptedly and invariably laid and imposed upon them external taxes by port duties, duties which the people never have opposed, never considered as a grievance, nay, never objected to, or petitioned against.

Government gave to these people no occasion of disputes, by laying internal taxes; and hath always found reason to be satisfied with the liberality and cheerfulness of their free grants and aids.

The people, on the other hand, never objected to external taxes, to imposts, subsidies, and duties. They know that the express conditions of their settlements and establishments were, that they should pay these, and therefore they never have had any disputes with government on this head, but have always found reason to be satisfied in the moderation with which government hath exercised this power.

Within four or five years past, it was thought advisable to lay internal taxes on the people of the colonies. The questions which this measure and the repeal of it, raised and brought into discussion, and the manner in which this question was most unaccountably agitated; by arguing from precedents of external taxes to the justice and propriety of internal taxes; by saying, that there was no difference, has taught the colonies to retort the reverse of the proposition, by arguing from internal to external. In this argument they have adopted your own proposition, and by your help have reasoned themselves into an opposition to all external taxes which they had hitherto submitted to for a century and half. Hence we receive at this day complaints of grievances, calls for redress, petitions, and remonstrances against these taxes; and hence, all the mischiefs of this day's perplexity.

But, Sir! all this is a mere outwork; advanced on your ground; it is not their real defence, on ground which they hope to maintain, it is mere *argumentum ad hominem;* it is fighting you with your own weapons. Neither their own principles nor the constitution of their establishments give ground for this reasoning, nor do their own arguments lead them to these conclusions. They neither are nor can be in earnest in making these claims, otherwise than having something to negociate with, and to give up.

If, therefore, you will act in the government of the colonies as you have done for one hundred and sixty years past; and will take the ground that this business does actually now stand upon, and will suffer it to be known and understood that you do really adopt this mode of administration, all may be quiet, and would be quiet, as soon as a ship could arrive with the news of it from North America.

The ground that this business doth actually stand upon is this: you have now no internal taxes upon which questions may be raised or dispute arise with the Americans. You have no concessions to make, no repeals as to internal taxes.

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The external taxes which are laid upon the colonies, are no other as to the matter of them, than such as the colonies have ever since the first establishment submitted to and paid: and you have pledged yourselves, that if in the mode of these taxes there be any thing which is injurious to the spirit of commerce, any thing which is matter of real grievance, you will be ready to relieve and to amend: there is not at present any intention of extending the exercise of our power to the laying internal taxes; nor will any future ministry (be they composed of whomsoever they may) ever venture to lay internal taxes.

But as there are those who say that there is no such distinction, as also others who do not see how this distinction can arise, I will, if the impatience of gentlemen to come to a decision without discussion, without a debate, will permit me, mark such distinction; after which, I will establish the plain, simple advice which I presume to give on those reasonings which I advance, as to the policy, the wisdom, the experience, the justice, the necessity of the measure.

1. The conditions of the grants and charters under which these people did first quit this country and settle in America; and on which their corporations and powers of government are established, do expressly stipulate for the payment of subsidies, duties, and imposts, almost without variation, in the same words, throughout every grant and charter. I need not now repeat or recite these clauses, they are apparent, and open to the inspection of every one.

On the other hand, every charter does expressly or intentionally make a distinction between these and such taxes as they are permitted and empowered to lay on their own estates, real and personal, with the precincts and limits of their territories; and on such transactions as shall pass within their own jurisdiction.

The charter of Virginia, after having directly fixed the right of payment of the subsidies, imposts, and duties, from the company to the crown; and having made a grant of the same to the company for twenty-one years, has these words: "That they shall be free of all subsidies and customs in Virginia for twenty-one years, and from all taxes and impositions for ever." Making not only an express distinction in the matter but in the right; and in consequence of this distinction, the incorporating charters of government gave them power to tax themselves.

The charter of Maryland, and in all the grants therein made, makes an express saving of imposts, duties, and customs, to the king and his heirs for ever, which the people of that province by the express condition of their charter are bound to pay; yet the same charter, likewise making the distinction both in matter and right, between internal and external taxation: "We, our heirs and successors, shall at no time set and make, or cause to set, any imposition, custom, or other taxation, rate or contribution whatsoever, in and upon the dwellers and inhabitants of the aforesaid province, for their lands, goods, tenements, and chattels within the said province." And in consequence of this, the legislature of the province has power granted to impose and assess taxes within the precincts and jurisdictions of its territories.

In the same manner (for it would be tiresome to cite all particulars) and almost in the same words, all the charters of incorporation and government, which are to be distinguished from the original grants of the lands and territories, make the same distinction, stipulating expressly for the payment of all imposts, subsidies, and duties, according to the law of merchants. But as to the lands, tenements, and hereditaments within the precincts and jurisdictions, leaving those at large, as objects of the taxation of the several legislatures which are respectively thereby established; with powers to ordain and establish all manner of laws, impose and assess, and to levy money on the lands and hereditaments within the bounds of their grants.

2. And as this was both intentionally and expressly the liberties and franchises granted to those colonies at their first settlement; and so understood, as far as the crown could or might grant: [Virginia Charter] so the exercise and administration of government towards these people hath been for a century and half invariably conducted on this plan, always imposing or requiring external or port duties; never till of late years, calling forth the power of parliament to exert its absolute power in laying duties and taxes on the dwellers and inhabitants of those colonies for their lands, hereditaments, or transactions within the precincts and jurisdictions of their several territories.

3. The colonies have been used to this distinction by the course and practice of

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government, have in their reasoning marked an essential difference in the nature of the thing.

Whatever tax or duty is imposed upon external property imported into their country, is indeed annexed to the property, but not upon them either in their rights or persons; until they choose, by purchasing that property with the tax annexed to it, to annex that tax also to themselves; but this is an act of their own consent.

Whatever tax is imposed on any property immediately and intimately united with their persons or rights, must be paid without any interposition of their own will, unless they quit that property, to forego that right.

The first is external; and annexed or not, at their own will; the second is internal, and absolutely annexed to what is inseparable from them.

Seeing this essential difference in the nature of the thing, established by invariable prescription from the first establishment as a government, they reason (and justly too) from this distinction and this prescription, that whatever right of taxing themselves within the precincts and limits of their own jurisdictions they enjoy by the principles of the British government and their own constitution; or whatever rights they may have been permitted to exercise by prescription and practice, such right or rights are confined to their own limits. Howsoever they may reason right or wrong as to internal taxes, their arguments go not beyond low-water mark; whatever passes the great ocean to or from without, either is originally, or commences to be, separate and distinct from their internal rights and property: whoever acts and trades beyond the limits of their precincts, acts and trades under the express conditions of the maritime laws, both of regulation and revenue.

If therefore there be any difference in this distinction—in the nature, circumstances and effect of taxes, internal and external—if there be any distinction in the case, whether the consent of the subject goes or does not go along with a payment made under a tax—so far as these distinctions do go, so far is there a distinction in the right; respecting the extent to which the rights of such people may be admitted.

4. But the principles on which the House of Commons grounds its peculiar right to originate all grants, and to frame all money bills, give the colonies reasonable expectation, that "whatever be the right" of the King, Lords, and Commons, assembled in parliament to make laws which shall be binding on the colonies in all cases whatever—the House of Commons will never "in act and deed" originate any grants from the lands on money within the limits and precincts of the colonies, until it shall be clear beyond all doubt, that the members of that House "do in act and deed represent" the counties, cities, and boroughs in America, as they do the counties, cities, and boroughs of Great Britain, "for whom they give and grant" —or that, according to principles maintained by the House of Commons, they do give and grant for the counties, cities, and boroughs, whom they do in act and deed represent.

I say, Sir! no ministry will ever venture—the present do not desire or mean—to propose such taxes to the House of Commons: and that House never will consent with those principles, by which it maintains this right of originating grants, exclusive of the Lords—I say, never will, adopt and originate any such tax.

What then remains—but as you are in fact, and by good fortune, restored again "to the safe old ground on which this matter hath always stood"—but that you resume again the spirit of your old policy. I am founded when I say that this would restore again peace, order, and government. I have letters in my pocket from some of the principal, some of the leading men of that country—who say we do not call upon Great Britain to give up her rights and claims—we only desire to be returned back and set again upon our old safe ground, which we understood, and that in the exercise of your power you would return to your old policy.

Let the matter of right rest upon the declaratory law, and say no more about it. It may be understood (as it is in the same words as that respecting Ireland) that it shall stand in the same line of administration—I say it may be so understood, and will be better understood by being never explained.

Do nothing which may bring into discussion "questions of right," which must become "mere articles of faith"—Go into no innovations in practice, and suffer no encroachments on government—Extend not the power which you have of imposing taxes, to the laying internal taxes on the colonies—Continue to exercise the power, which you have already exercised of lay-

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ing subsidies, imposts, and duties—but exercise this, as you have always hitherto done, with prudence and moderation, and directed by the spirit of commercial wisdom.

This spirit and mode of government would cement again that union which is shattered, if it is not quite broken—would restore again that spirit of obedience, which the loss of authority on the one hand, and the loss of affection on the other, hath interrupted—would re-establish the authority as well as force of "civil government," which has almost lost its force by losing its authority. Exert the spirit of policy, that you may not ruin the colonies and yourselves by exerting force.

Mr. Alderman *Trecothick* declared to the House, that when taxes on America were in agitation by the late Mr. Charles Townshend, the merchants all told him the effects they would have in North America, that they offered to pay the said taxes here in England, but it was unfortunately resolved to tax America, and the consequences would be fatal to this country. The Address to the King was lodging a sword over the heads of the North Americans, which might drive them to immediate despair. He concluded with moving to recommit the Address.

Mr. *Grey Cooper* assured the House, that it was not meant to put the act in execution, but only to shew to America, what government could do if pushed to it.

Captain *Constantine John Phipps** said, I will now, Sir, say something of the legality and expediency of this measure. The act, Sir, of the 35th of Henry 8, appears upon the face of it, to be an explanatory and retrospective law; the preamble says, "doubts having arisen." What doubts, Sir, could have arisen, how treasons committed in the colonies could be tried long before the colonies existed or were thought of? I differ, Sir, from those gentlemen who treated this as a tyrannical act, as it was one of the least exceptionable acts of a tyrannical reign, as it was calculated to give those privileges to Englishmen, which the present application of it would deprive the Americans of: I mean the advantages of a trial by jury; but, Sir, it happens fortunately for the Americans, that there is not a single act in the whole statute book that bears more strongly, from collateral circumstances, the marks of an occasional act; it was, Sir, enacted at the same time with the act for settling the succession, and several other laws, at a parliament called, previous and preparatory to the king's going upon an expedition to France, in which he conquered Bologne, and some other places. It may be necessary to remind the House, that all treasons committed by persons abroad, were, by the 1st of Henry 4, c. 14, to be tried before the constable and marshal. Now sir Humphry, duke of Bucks, the last high constable, was beheaded 23 years before this time; so that without this act there would have been an absolute failure of justice, had any treason been committed whilst the king was abroad; but, Sir, should it be thought right to adhere to the letter rather than the spirit of the law, and to apply it to purposes which could not be foreseen at the time it was enacted; is it expedient, is it politic now to put it in execution? Let us for a moment consider the situation of these men, torn from the acclamations of an applauding country (for popularity is become a crime every where in America, as well as England) to the mockery of a trial by jury, for so I call it, divested of all its advantages. How can they avail themselves of the right to challenge jurymen, whose character and connections are unknown to them? How are they to avail themselves of counsel, whose abilities and fame they are strangers to? By what process are they to compel the appearance of witnesses from the other side of the Atlantic? But, Sir, should they, with all these disadvantages, escape, and indeed I do not see how it can happen otherwise, for the act of the 35th of Henry 8, is for treasons committed out of the realm, and

* Afterwards lord Mulgrave. He was born in 1746. He early embraced the naval profession, and by the influence of friends was made post captain in 1765. In 1768 he was elected member for Lincoln, and distinguished himself in parliament by his bold and manly conduct in the several popular questions which then agitated the House, especially the Middlesex election and the libel laws. His abilities as a sailor were employed in a voyage of observation and discovery towards the North Pole in 1773, and he set sail with captain Lutwidge in two ships, and at his return published an interesting Narrative of his remarks and observations in 4to. He was also author of a Letter from a Member of Parliament to one of his constituents, on the late proceedings of the House of Commons in the Middlesex elections. He succeeded to the Irish honours of his father in 1775, and in 1790 was created an English peer. He died in 1792.

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the 25th of Edward 3, makes levying war within the realm treason; so that whether America is in or out of the realm, it cannot be within the letter of both these acts, and I hope there is no latent, obsolete statute, teeming with constructive treason, to be brought forth against these men. Should they, I say, Sir, after all, be acquitted, what reparation can be made to an ingenuous mind for so foul an imputation as disloyalty? What reparation can be made to men dragged from the endearments of domestic life, brought from the land of liberty, flowing with milk and honey, to drink at the bitter fountain of oppression? Will they return less possessed of the confidence of their fellow-subjects, and less inclined to abuse it? Will they return less convinced of the inconveniences of a dependent state, or less solicitous to shake off the yoke from this new outrage? Let us for a moment consider the state of the country, till they can have some account of what is become of these patriots, as they will think them; will they not think that all those, who shall render themselves obnoxious to government by standing forth in opposition to its measures, and by supporting the rights of the people, are, like Tarquin's poppies, to be cut off for overtopping the rest? Will they not think these men are brought over here to be murdered? I know the expression is strong—I shudder when I use it—but we must make much stronger suppositions before we can possibly agree to this measure; we must—rather than believe that one man, a governor, heated by dispute, piqued by opposition, can be mistaken, or have misrepresented this people, believe that they, though every one of their remonstrances have brought assurances of loyalty and complaints of misrepresentation, have been guilty of the two greatest crimes that Englishmen and Christians can be guilty of—by flying in the face of their king, by rebellion, and setting their God at defiance by perjury. Will it not be thought, on the other side of the Atlantic, at least as likely, that 12 men may be found here at the devotion of a ministry, capable of perjury and murder, as it can be thought here, that 12 men cannot be found there incapable of perjury and treason? Measures such as these are more calculated to raise the rebellion, they are pretended to be pointed at, than to quell it, did it exist. But, Sir, if such is the unhappy temper and complexion of the times, that this step is thought necessary; let not parliament interfere; let them not insult our understanding, by calling upon us to recommend a measure, which it appears by all the papers on your table, they have already taken without your advice. I know the Americans wish for the smallest thread to hang parliamentary confidence on; let them, at least, have this slender hope, that if it shall hereafter appear that this is a power either illegally assumed, or wantonly exerted, parliament has not by this hasty step precluded itself from punishing the authors of it. Where is the idea of ministerial responsibility, unless it be that they are to take extraordinary steps on critical occasions; liable, however, to the severest censures if they do not afterwards prove, that the boldness of the measure was equalled by the urgency of the occasion? Let me for a moment address myself to the administration: it does not need their great penetration to see, for even I can see, the many inconveniences that must attend this measure; and if they feel as I do, and God forbid they should not! for the liberties of their fellow-subjects, they will not persist in so ill advised a measure: but should they remain deaf to the cries of the people, callous to the sensations of free men; it is our duty to stand between the victim and the altar, and to prevent the sacrifice of helpless freedom at the shrine of wanton ministerial tyranny. A trial by jury in its utmost extent is too inherent a right, too sacred a privilege, to be trifled with, and explained away by any forced constructions upon an obsolete statute. Our ancestors thought it so indispensible, that they granted the *medietas linguæ* to merchant strangers, and Welch borderers. I hope, Sir, we shall not plead in vain, in this enlightened age, in this free parliament, for that right for our American fellow-subjects, which the wisdom and generosity of our ancestors granted to transitory aliens, and new conquered borderers. It is, Sir, by the whole tenor of our laws, their inheritance as Englishmen—it is, I thank God, by the spirit of our constitution their birth-right as men.

The House divided upon the Address, 169 for it, and 65 against it.

The Resolutions and Address being agreed to by the Commons, were sent back to the Lords.

When the Address was presented to the

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King, his Majesty returned this Answer:

"My Lords and Gentlemen,

"The sincere satisfaction you express in the measures which I have already taken, and the strong assurances you give of supporting me in those which may be still necessary to maintain the just legislative authority, and the due execution of the laws, in my province of Massachusets Bay, give me great pleasure.

"I shall not fail to give those orders which you recommend, as the most effectual method of bringing the authors of the late unhappy disorders in that province to condign punishment."

Proceedings in the Lords on Mr. Wilkes's Appeal upon a Writ of Error.] December 21. Mr. Wilkes's Appeal from the Judgment of the Court of King's-bench was ordered to be heard on the 16th of January ensuing. The following is a state of the case:

JOHN WILKES, esq. Plaintiff in Error,
and
Our Sovereign Lord the KING, Defendant.

Upon two Judgments in the Court of King's Bench, on two Informations for Libels, viz. One Information for publishing a Libel, entitled, The North Briton, No. 45: and the other for publishing a Libel, entitled, An Essay on Woman.

The Case of the Plaintiff in Error.

Hilary term, 3 Geo. 3. Sir Fletcher Norton, knight, then Solicitor General of his present Majesty, did, by virtue of such, his office, exhibit the aforesaid informations against the said John Wilkes, in the court of King's-bench, for publishing the compositions, or libels, in those informations mentioned, as containing matters to the 'purport' and effect, in the said informations respectively specified—to which information the said John Wilkes pleaded Not Guilty, and issues were thereupon joined.

The records of Nisi Prius, transcribed from the court rolls, were sent under the seal of the Court, to the right hon. William lord Mansfield, his Majesty's chief justice of the said court, assigned to try those issues, and afterwards and before the trial, both the records were altered and amended, by charging the said compositions or libels to contain matters to the 'tenor' and effect, in the same informations respectively specified, instead of 'purport' and effect.

The said John Wilkes did not plead, nor was called upon to plead *de novo*, and the trials were had upon the records so altered and amended, and the said John Wilkes upon his defence at the said trials was convicted. He was afterwards outlawed upon such convictions, but both the outlawries have been since reversed for error. On Wednesday the 27th day of April last, the said John Wilkes, upon the writ of Capias Utlagatum, was committed from the custody of the sheriff of Middlesex, who apprehended him, to the marshal of the King's-bench, and remained in his custody in the King's-bench prison from that time until the 18th day of June in Trinity term, 8 Geo. 3. When the Court of King's-bench pronounced the following Judgment against him, upon the information for publishing the North Briton, and the verdict thereon, viz. "That the said John Wilkes, for his offence, do pay a fine to our sovereign lord the King, of 500*l.* of lawful money of Great Britain, and that he be imprisoned in the custody of the aforesaid marshal for the space of ten calendar months then next ensuing; and the said John Wilkes, present here in court, is committed by the Court here, to the custody of the aforesaid marshal, to be by him kept in safe custody, in execution of the judgment aforesaid, and until he shall have paid the said fine."

And the Court, on the same day, immediately afterwards, pronounced against the said John Wilkes, the following Judgment upon the other information, and the verdict thereon, viz. "The said John Wilkes having been convicted of certain other trespasses, contempts, and misdemeanors, for printing and publishing a certain other libel, entitled, The North Briton, No. 45; for which the said John Wilkes hath this day been sentenced, and ordered by the Court here to pay a fine to our sovereign lord the King, of 500*l.* and to be imprisoned in the custody of the aforesaid marshal, for the space of ten calendar months. It is considered by the Court here, that the said John Wilkes, for his trespasses, contempts, and misdemeanors, in printing and publishing the said obscene and impious libel, entitled, An Essay on Woman, and other impious libels in the aforesaid information specified, whereof he is impeached and convicted, do pay a further fine to our sovereign lord the King of 500*l.* of lawful money of Great Britain, and that the said John Wilkes be further imprisoned, in the

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custody of the said marshal, for the space of twelve calendar months, to be computed from and after the determination of his aforesaid imprisonment, for printing and publishing the said other libel, entitled, The North Briton, No. 45. And it is further considered by the Court here, that the said John Wilkes do give security for his good behaviour, for the space of seven years, to be computed from and after the end and expiration of the said twelve calendar months, to be computed as aforesaid; to wit, himself, the said John Wilkes, in the sum of of 1,000*l.* with two sufficient sureties in 500*l.* each; and the said John Wilkes present here in court, is committed by the Court here to the custody of the said marshal, to be by him kept in safe custody, in execution of the judgment given by the Court here, and until he shall have paid the said fine, and given such security as aforesaid."

The plaintiff in error hath brought two writs of error in parliament, in order to reverse the judgments given by the Court of King's-bench, and hath assigned for error, on both these judgments, that there was a variance between the records and the original informations filed against him, in this, that the original informations charged him with having published the several libels aforesaid, as containing matters to the 'purport' and effect, in those informations specified: whereas in the records he is charged with having published the same libels, as containing matters to the 'tenor' and effect, in the same informations specified.

And thereupon he prayed two writs of Certiorari, which were granted. And by the return thereto, it appears, that the original informations aforesaid, are sent to our sovereign lord the King, in this present parliament, as fully and entirely as the same are filed, entered, and remain in the custody of the said lord chief justice of the court of King's-bench; and thereby, it also appears, that the said records, and the same original informations, are consistent, and that there is no variance between them: wherefore on the part of the plaintiff in error, it is apprehended that he is precluded from making any objection, with respect to the propriety of the aforesaid amendments and trials, under the above circumstances, that being a question proper to be agitated in the court of King's-bench only, which has decided upon it, and not the subject matter of a writ of errors.

The First Error

Is assigned by the plaintiff in error, as decisive upon both the judgments, viz. That it does not appear by the said records, that the said sir Fletcher Norton, knight, by whom the said informations against the said John Wilkes were exhibited, had any lawful power, warrant, or authority, according to the law of the land, to exhibit the said informations in the records aforesaid specified; and, therefore, that the said informations are not sufficient informations in law, whereon to convict the said John Wilkes of the offences in and by the same informations charged upon him, and to ground the aforesaid judgments against him.

Whereupon the plaintiff in error humbly hopes, that the judgments of the Court of King's-bench will be deemed erroneous, and will be reversed, for the following (among other)

Reasons:

I. Because the said informations are exhibited and filed by the said sir Fletcher Norton, as his Majesty's solicitor general, *ex officio*, when, by virtue of such his office, he had no general authority so to do.

II. Because it does not appear, that he had any special authority so to do.

Much doubt has been formerly entertained, by those who were most eminently distinguished for their knowledge of the criminal laws of this country, whether any criminal informations were lawful. The constructions of Magna Charta, cap. 29, some ancient statutes, and books of the law, declare and agree, That no man can be charged, but by indictment or presentment.—In the case of the King and Birchett and others, 1 and 2 William and Mary, reported in 5th Mod. 463, and there called Prynne's case, sir Francis Winnington averred, that lord chief justice Hale had often said, "That if ever informations came in dispute, they could not stand, but must necessarily fall to the ground."—It is admitted, however, that the court of King's-bench in that case held, that informations lay at common law.

The present question therefore will be, Who are the officers known to the law, and described in the law books, as the persons with whom only this right of exhibiting informations *ex officio* rested?—It may be clearly collected, from the authority of the legislature, and the law books, that these officers were only the king's attorney general, and the king's coroner,

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to which latter is always added, in such cases, the title of attorney also—No act of parliament, no law book, mentions any other officer, as having this power in any case, or under any circumstances.—From the king's coroner this power was taken away by the statute 4 and 5 William and Mary, cap. 18, and was then left in the attorney general only.—Serjeant Hawkins in his second volume of Pleas of the Crown, fol. 268, observing upon that statute's taking away this power from the king's coroner and attorney only, says, from whence it follows, that informations exhibited by the attorney general remain as they were at common law.

Such informations can only be exhibited in the court of King's-bench, of which court the king's attorney general and the king's coroner and attorney, commonly called the master of the Crown-office, are officers upon record, and have their known seats and places there as such.

Sir Bartholomew Shower, in his reports fol. 114, in the same case above mentioned, in 5 Mod. argues and observes, upon the statute 31 Elizabeth, cap. 5, and its proviso in sect. 3, providing "That that act shall not extend to any such officers of record as have, in respect of their offices, theretofore lawfully used to exhibit informations," that it is the judgment of parliament, that there were officers to exhibit them, and those that are meant must be the attorney and his deputy the coroner, for I know, says he, no other.—It may be thought that sir Bartholomew Shower is inaccurate in calling the coroner deputy to the attorney, because the coroner has a superior seat in the court of King's-bench to the attorney.—But sir Bartholomew Shower must be understood to speak of the coroner, as deputy only in this instance, he not having equal power with the attorney over the information when exhibited; for the coroner cannot put a stop to it even though he should have the king's warrant under his sign manual for the purpose; and yet the attorney general can, by virtue of his office, stop it at once by a *noli prosequi*, which appears by the case of the King *v.* Benson, 1 Vent. 33. Sir Bartholomew Shower, fol. 120, says further, That in case of malicious prosecution, no action lies against the attorney or coroner, any more than against a grand juror or prosecutor: and the reason given for it is, because they are upon their oaths, and so, says he, they (meaning the attorney and coroner) are here as officers upon record—and fol. 122, he says, the way of apprizing the Court is, by 'dedit curiæ hic intelligi et informari,' before any process which is done by a sworn officer—Filed of record.

If it be contended, that during the vacancy of the office of attorney general, his authority, in this respect, devolves upon the solicitor general; it is answered, that no law book, or judicial determination, warrant that argument. It is admitted that there are some modern instances in the rolls of the Crown-office, of informations filed by the solicitor general, *ex officio*, some of which describe the vacancy of the office of attorney general, as if that was the circumstance from which the solicitor general derived his authority, and raised to himself this power.—But as the others are silent about such vacancy, they must prove a general original authority, or nothing; because if a special authority is to give the title, it must, by the rules of law, be set forth in the record, for nothing out of the record can warrant the judgment upon the record.—There does not appear to be one instance of a litigation, or judicial opinion, concerning such informations filed by the solicitor general.

It appears upon the records, that the attorney general became the prosecutor of the present informations, before the judgments were given. But no adoption afterwards, by the attorney general, of these illegitimate offspring can sanctify their birth.—If the informations were bad when they were filed, no subsequent act whatsoever could make them good.

Wherefore, as the legislature have not substituted, nor meant to substitute the solicitor general, or any other person or persons, in the room of the coroner, from whom they took this power, or in the place of the attorney general, during the vacancy of that office, as it was always in the power of the king to supply that vacancy at any moment he pleased; as the legislature have left the attorney general the only known officer in law, authorised to exhibit criminal informations *ex officio*; as the solicitor general is no sworn officer of the court of King's-bench, either filed of record, or otherwise; as all the law-books are consistently silent, about any power lodged in him for such purpose; as this power has of late time only been usurped by the solicitor general in some modern instances, and those too varying in their form, as if he did not know on what ground he claimed or exercised the power;

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and as he appears to have had no warrant or authority whatsoever, to act in this instance, as attorney for the crown, it is humbly submitted by the plaintiff in error, that the informations in question were filed without any lawful authority, and for that reason are fundamentally bad, and void, so as not to warrant any judgments upon them against the plaintiff in error.

The plaintiff in error therefore humbly hopes, that for these and other reasons to be offered at the hearing, the said judgment shall be reversed.

The Second Error

Is assigned by the plaintiff in error, as affecting only part of the judgment given by the Court of King's-bench, upon the information for publishing the libel entitled "An Essay on Woman," viz. that, by that judgment, he is sentenced to be imprisoned for the space of twelve months, to commence at a future time after the giving that judgment; whereas, by the law of the land, such imprisonment ought to commence, at and from the time of giving the judgment, and not at any future time.

Whereupon the plaintiff in error humbly hopes, that that judgment, as to the commencement of the imprisonment, will be deemed erroneous, and will be reversed for the following (among other)

Reasons:

All judgments in law, as they affect either the property or the persons of those against whom they are given, ought to contain in them the clearest and most precise certainty, and to take immediate effect; but more especially such judgments as lay a restraint upon the liberty of the persons of his Majesty's subjects.

The present judgment is deficient in both these points.

1. It does not take immediate effect, but is to commence in future, viz. after the determination of another imprisonment, inflicted upon the plaintiff in error, by another judgment, given upon a different record, totally unconnected with this.

2. It does not contain any precise certainty—because it is uncertain when the first imprisonment will determine; upon the determination of which alone, the imprisonment under this judgment is to commence. If the judgment, sentencing him to the first imprisonment, should be found erroneous, it is not easy to say upon this record, whether all the first imprisonment, previous to the reversal of the judgment, is to be held for nothing, and the twelve months to be computed from the time of such reversal only, or from the commencement of the first imprisonment, all of which would be unlawful.

Who is to be the judge of this? Is it to be left to the discretion of the marshal how to settle the computation; or is the prisoner to go through another expensive litigation before the Court of King's-bench by way of petition, or motion, to be discharged?

If judgments could lawfully commence in future, they may as well commence at a long, as at a short date, and would be the instruments of great oppression; not by the immediate execution of present and certain punishments, but by holding suspended terrors over the heads of those who are the objects of them.

The plaintiff in error therefore humbly hopes, that for these, and other reasons to be offered at the hearing, this judgment shall be reversed, as to the commencement of the imprisonment, and that it shall be taken and adjudged to commence at and from the time of pronouncing the judgment. John Glynn.

Thomas Davenport.

The Lords did not enter deeply into the merits of the case. Lord Mansfield shortly recited the doctrine of libels, which he had repeatedly delivered in the court of King's-bench, declaring the same to be according to law. Upon which the Judgment of the court of King's-bench was affirmed, in both sentences.

Proceedings in the Lords on the Douglas Appeal Cause.] February 27. In the well known cause between the duke of Hamilton and Mr. Douglas, the Court of Session in Scotland having decided in favour of the duke, Mr. Douglas appealed to the House of Lords. Upon this occasion, lord chancellor Camden, and lord Mansfield, made this day the following speeches:

Lord Chancellor *Camden:*

My lords; the cause before us is, perhaps, the most solemn and important ever heard at this bar. For my own share, I am unconnected with the parties; and having, with all possible attention, considered the matter both in public and private, I shall give my opinion with that strictness of impartiality to which your lordships have so just

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and equitable a claim. The question before us,—"Is the appellant the son of the late lady Jane Douglas or not?"—I am of the mind that he is; and own that a more ample and positive proof of a child's being the son of a mother never appeared in a court of justice, or before any assize whatever.

The marriage of Lady Jane to colonel Stewart, August the 10th, 1746, is admitted on all hands. Her pregnancy in January 1748, and the progress of it, were observed by many people; at Aix la Chapelle it was notorious; her stays were widened; the nuns of the convent of St. Anne's discerned it, notwithstanding lady Jane's modesty; the maid-servants are positive as to the fact: the earl of Crawford wrote an account of it to the duke of Douglas, not as an hearsay, but as a fact, of which he himself was fully satisfied by ocular inspection; and if there be a pregnancy, there must be a delivery, which accordingly happened, by the positive evidence of Mrs. Hewitt, who has deposed, that "she received them into her lap as they came from lady Jane's body."—She was delivered of twins on the 10th of July 1748, at Paris, in the house of Madame la Brun, in the Fauxbourg de St. Germain. Lady Jane's ability to bear children is established by many witnesses, and a miscarriage after the birth of the twins, still more and more proves the delivery.

But, my lords, there is another proof, no less convincing, that the appellant is really the son of Lady Jane, and this arises from the uniform tenderness shewn towards him. It is in proof that, on every occasion, she shewed all the fondness of a mother: when he casually hit his head against a table, she screamed out and fainted away; when her husband, the colonel, was in prison, she never wrote to him without making mention of her sons; she recommends them to clergymen for the benefit of their prayers; is disconsolate for the death of the youngest; takes the sacrament, owns her surviving son; does every thing in her power to convince the world of his being hers: blesses and acknowledges him in her dying moments; and leaves him such things as she had. Sir John likewise shews the same tenderness in effect: he leaves him 50,000 merks by a bond in September 1763, ten years after the death of Lady Jane; and, on his death bed, solemnly declares, before God, that the appellant is the son of Lady Jane; "I make this declaration, said he, as stepping into eternity."—A man that is a thief may disguise himself in public, but he has no occasion for any mask when in private by himself.

These positive declarations convinced the duke of Douglas; and he left his dukedom, and other estates, to his nephew the appellant, who was regularly served heir thereto in September 1761; when he was possessed of all the birthright of a son, so far as the oaths of witnesses, the acknowledgment of parents, and an established habit and repute could go. The cruel aspersions thrown out against lady Jane and the colonel, had been refuted by the late duke of Argyle and the countess of Stair. No mortal doubted the appellant's being the son of Lady Jane, except Andrew Stewart; his father Archibald Stewart; major Cockran, who is married to Stewart's sister; with White of Stockbriggs, a principal actor in these scenes. These doubted the matter; and Andrew Stewart, as by concert, went over to France, not to procure evidence of a real fact, but to suborn witnesses to establish an article that never existed except in their own imagination; the design was bad, and the means to accomplish it, were no less criminal! It is needless to follow the searcher through all the scenes of his enquiry, the result of which was to return to Scotland, enter an action against the appellant, and bring his own father to condemn him, at a time when the old gentleman was in a condition every way deplorable. And taking advantage of his inaccuracies, he makes a second tour to Paris, where he published a Monitoire, entirely to seduce witnesses, and influence them to commit the blackest perjury. In this paper he describes the person of sir John Stewart, lady Jane Douglas, and of Mrs. Hewitt; asserts that they had purchased two children, whom they wanted to impose upon the world, in order to defraud a real heir of an immense estate and fortune; and inviting all who could give light into the matter, to come to his lodgings, which he particularly described.

Mr. Stewart certainly appeared like the guardian of the duke of Hamilton; a pompous title, which drove several to their own destruction, and in hopes of a reward. Among the number of those was Madame Mignon, a glass manufacturer's spouse, who after conversing with Andrew Stewart and his clerk, and receiving presents from them, comes in before the Tournelle Criminelle, and deposes, that she had sold

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her own child to foreigners, whom she did not so much as know. Can a woman forsake her sucking child? is a rhetorical remonstrance handed to us from the highest authority.—The thing is incredible, and yet the woman has sworn it!—A circumstance sufficient to render her testimony of no force, when opposed to the dying declarations of lady Jane Douglas and colonel Stewart, and to the positive oath of Mrs. Hewitt, whose character is established upon a very good foundation; but take the declaration of Madame in all its extent, yet she has said nothing to affect the appellant; the time when, the people to whom, with every other circumstance, prove her not to have been the mother of the young gentleman; his complexion, the colour of his eyes and hair, prove that he was not her's. The same thing might be said of the son of Sanry, the rope-dancer, whom the counsel for the respondent would infer to be the child Sholto, the younger of the twins: and as a strong proof of the same, urged, that the two were but the same identical person under different names; and your lordships were entreated to keep in your view the rupture under which each of them laboured, in order to prove the identity! But how comes all out? Sanry's child could speak in November, 1749, but Sholto could not utter a word for some months after he came to Mr. Murray's house in December, 1749. And now evidence is offered to be produced at your lordships' bar, that the child Sholto had no rupture in 1749; nay, that he was as sound as any person within these walls; certainly Mr. Murray, the most material witness in this affair, is more to be credited than Madame.

Your lordships have heard much ingenuity displayed, in order to prove that lady Jane's pregnancy was imaginary: the symptoms are allowed, but the reality is now denied, though once Andrew Stewart himself was forced to acknowledge that lady Jane was actually with child. If lady Jane, or any other woman, had such symptoms, it is impossible she could have been eased of them so soon as in any other manner than by a delivery; had she been ill of a dropsy, her bulk would not have been totally diminished in so short a time as from the 2nd of July to the first week of August, when all who saw her at Rheims, concluded, that she had but lately lain-in. Great stress has been laid upon the letters said to have been forged in the name of Pierre la Marre, the man-midwife, the person who delivered lady Jane. I admit them to be forged, and yet this forgery is with me a proof of lady Jane's innocence; sir John's hardships are admitted; and if he, after so long a confinement, should cause the letters that had passed between la Marre and him to be transcribed, in order to amuse himself, or to satisfy lady Jane that they were not lost, it was no way criminal; lady Jane received them, but observing they were not originals, she laid them by: so conscious was she of her own innocence, that she did not use them, nor ever would they have made their appearance, had it not been for the conduct of Andrew Stewart, who, upon getting an order to search lady Jane's repositories, found out these letters, produced them in court to sir John; when under all the miserable circumstances of a man groaning under a load of years, infirmities, and the acutest pains.

The evidence of Godfroi, the landlord of the Hotel de Chalons, in the Rüe St. Martin, is contradictory and inconsistent, his books being every way defective and erroneous; nor does Andrew Stewart appear in a favourable light in this particular; when first he came to Godfroi's house, both the man and his wife were ignorant of the matter; neither the one nor the other recollected lady Jane Douglas, or her husband, till Andrew Stewart, desiring a sight of the Livre d'Inspecteur, he found two articles, one of them 'Mr. Fluralt Escoissois et sa famille sont entré, 8th Juliet, 1748;' and this he positively affirms, with oaths and imprecations, to be the hand-writing of sir John Stewart, with which he pretended to be thoroughly acquainted; but he was obliged to retract, when other postages were found to be of the same hand-writing; this postage was found to be posterior to one written on the 12th, and the landlady of the house declared that she herself had marked it down. He had fifteen rooms and ten closets, which they pretended always to be full, and yet in their book it does not appear there were above three persons in them during colonel Stewart's pretended abode; and what is pretty strange, they had many women lodgers during that year, and yet they depose, they remember none but this lady, whom Andrew Stewart would have to be lady Jane Douglas. They even differ with respect to the names of their servants; the counsel at the bar have acknowledged the inaccuracy of the

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books, owing to the avocations of the man elsewhere, and to the inadvertency of his spouse, continually hurried by a multiplicity of business. Besides a postage in a book, such as the Livre d'Inspecteur, which, like a waste-book, contains things just as they occur; or the Livre de Depense, to which the articles of the former are transferred, bear no manner of convincing proof, that the persons mentioned in these stayed at such and such places, it being a customary thing to mark down the name of the person the moment he takes the lodging; and it is notorious that many persons have paid a week, nay a month's lodging, without sleeping a night in it; and this is no more than equity, since the same was reserved for their use.

But here, my lords, the pursuers in this affair have destroyed their own cause; they have brought a sort of proof that lady Jane Douglas was at Michelle's house called Le petit Hotel d'Anjou, in the Rüe Serpente, Fauxbourg St. Germain; and this, at the very time when they would prove her to have been at the house of Godfroi, of whom so much has been said and heard: Michelle and Godfroi disagree in every thing, except in the irregularity of their books: and indeed it is hard to say which of the two excels most in that particular; but not to insist on irregularities, it is proved to be the practice in Paris, and of Michelle in particular, to write people's names in these police books, as entered on the day the room was hired, though the person does not enter for some days after.

To insist on these things, my lords, is tedious; and yet the importance of the case requires it. One madam Blainville swears, that on one of the days betwixt the 8th and 13th of July, she accompanied lady Jane in a coach to take a view of Versailles, and at another time to see the Palace de Vendome; but this witness is, in every respect, contradicted by a multiplicity of evidence; and in every view her testimony appears to be absurd and preposterous. First, she is contradicted by Mrs. Hewitt, whose deposition bears great weight with me, as also by other witnesses; for first, she, Blainville, says, that sir John and his family were eight days in Michelle's before the child was brought to the house: whereas Michelle's family all swear, that he was brought next day. Secondly, she says, that the child was given to the nurse, La Favre, the very night of his arrival; that she saw her carry him home with her, and that lady Jane visited him in the nurse's house: whereas, on the contrary, it is proved, that Favre remained four days at the hotel, during which period lady Jane went no where abroad. Thirdly, she deposes, that no person visited sir John and lady Jane during their stay at Michelle's: whereas, by the oath of madame Favre, a gentleman visited him there; but be that as it may, lady Jane was delivered on the 10th of July; and Blainville does not say she went to Versailles till the 27th; and it is no new thing for a lady, however delicate, so long after delivery, to go so far in a country where the weather and roads are so remarkably fine, and the carriages every way easy and convenient.

All these objections to the reality of the appellant being the son of lady Jane, are imaginary, and hitherto have been refuted to the honour of the innocent, and the more firmly establishing him in the possession of his birthright. They only tend to render her virtues more brilliant and illustrious; for as the allegations never existed in fact, but in the imagination of Andrew Stewart; so, when put to the trial, they must necessarily fall to the ground. Thus he has asserted, that col. Stewart received 550*l.* from the earl of Morton's banker, some days before lady Jane's lying-in; and from thence would infer that her delivery in madame Brun's, an obscure house, was only to carry on the imposture; but now it appears that this money was not received till sixteen days after. How unfortunate for the duke of Hamilton to be under the direction of such a man! one who has involved him in such an immensity of expences, and this by examining a multitude of witnesses upon articles really foreign to the cause, which indeed is not the duke of Hamilton's; it is the cause of Andrew Stewart, who has acted so strange a part, as well deserved the observation made at the bar, with great propriety, "That if ever I was to be concerned in any business with him, I should look upon him with a jealous eye." I shall not follow the noble lord who spoke last, through the various descriptions he has given us of midwifery. His observations may be just, but they cannot affect the character of lady Jane Douglas, or the cause of the appellant, her son. The question before us is short: is the appellant the son of lady Jane Douglas or not? If there be any lords within these walls who do not believe in a future state, these

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may go to death with the declaration that they believe he is not. For my part I am for sustaining the positive proof, which I find weakened by nothing brought against it; and in this mind I lay my hand upon my breast, and declare, that in my soul and conscience I believe the appellant to be her son.

Lord *Mansfield:*

My lords; I must own that this cause before us is the greatest and most important that occurs to me: it is no less than an attack upon the virtue and honour of a lady of the first quality, in order to dispossess a young man of an eminent fortune, reduce him to beggary, strip him of his birthright, declare him an alien and a foundling. I have slept and waked upon the subject, considered it upon my pillow, to the losing of my natural rest, and with all the judgment I was capable, have considered the various articles that make up this long and voluminous cause, upon which I am now to give my opinion before your lordships.

I apprehend that, in the matter before us, three things are to be considered. The situation of lady Jane before her delivery, at her delivery, and after it was over: to all which the Chancellor has spoken with great propriety. It is proved beyond a possibility of doubt, that she became pregnant in October, 1747, at the age of 49 years, a thing far from being uncommon, as is attested by physicians of the first rank, and confirmed by daily experience; and that in the month of July she was delivered of twins, one of whom died, the other is still alive; he has been presented to the world by sir John Stewart and lady Jane Douglas, as their son; nor can he be wrested from the hands of his parents, unless some other had in their life time claimed him as their child in a legal and justifiable way.

This action, my lords, did not lie against the appellant as an impostor; for an impostor, in the sense of the law, is a person, who wilfully and knowingly pretends to be a different one from what he really is, in order to defraud another, and to impose under a fictitious name upon the public. If any be an impostor, it must have been lady Jane, whom they ought to have prosecuted in her lifetime, and not at the distance of nine years after her death: the method of discovering an impostor, is to bring his accomplice to the court before which the impostor was arraigned; and if, after a fair trial, the accused person be found guilty, let him take the consequences thereof: but this the respondents have neglected: the appellant has been, for five years, four months, and twelve days, the acknowledged son of lady Jane Douglas; and for thirteen years and two months the son of sir John Stewart, before any attempt was made to rob him of his parents, his birthright, and his all.

As the Lord Chancellor has anticipated much of what I intended to speak upon this subject, so I shall only touch at the situation and character of the deceased, whom I remember in the year 1750, to have been in the most deplorable circumstances. She came to me (I being Solicitor General) in a very destitute condition, and yet her modesty would not suffer her to complain. The noble woman was every way visible, even under all the pressure of want and of poverty. Her visage and appearance were more powerful advocates than her voice; and yet I was afraid to offer her relief, for fear of being constructed to proffer her an indignity. In this manner she came twice to my house, before I knew her real necessities; to relieve which now was my aim. I spoke to Mr. Pelham in her favour; told him of her situation with regard to her brother the duke of Douglas, and of her present straits and difficulties. Mr. Pelham without delay laid the matter before the King; the duke of Newcastle, then being at Hanover, was wrote to; he seconded the solicitation of his brother. His majesty immediately granted her 300*l.* per annum out of his privy purse; and Mr. Pelham was so generous as to order 150*l.* of the money to be instantly paid. I can assure your lordships, that I never did trouble his majesty for any other. Lady Jane Douglas was the first and the last who ever had a pension by my means. At that time I looked upon her to be a lady of the strictest honour and integrity, and to have the deepest sense of the grandeur of the family from whence she was sprung; a family conspicuously great in Scotland for a thousand years past; a family whose numerous branches have spread over Europe; they have frequently intermarried with the blood royal; and she herself was descended from Henry 7. I took care that his late majesty should be made acquainted with her family and name, to the intent that though she was married to colonel Stewart, a dissipated and licentious man,

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and who had been in the rebellion, 1715, yet he would pass it over, as she was of a race who had always been eminently loyal, her brother having charged as a volunteer at the head of the cavalry in the year 1715, when his cousin the earl of Forfar died like an hero in defence of the government; and that his grace had in the year 1745 treated the rebels and their leader with contempt and ridicule: and indeed his majesty, from his wonted magnanimity, spoke nothing of her husband; but treated her with all the respect due to a noble woman of the first rank and quality; one who carried all the appearance of a person habituated to devotion; and for a number of years trained up in the school of adversity and disappointment.

Is it possible, my lords, to imagine that a woman of such a family, of such high honour, and who had a real sense of her own dignity, could be so base as to impose false children upon the world? Would she have owned them on every occasion? Was ever mother more affected for the death of a child, than she was for that of Sholto, the younger of her sons? "Will you," said she, "indulge me to speak of my son?"—And cried out with great vehemency,—"O Sholto! Sholto! my son Sholto!"—And after speaking of his death, she said,—"she thanked God that her son Archie was alive." "What," said she, "would the enemies of me and my children say, if they saw me lying in the dust of death, upon account of the death of my son Sholto? Would they have any stronger proof of their being my children than my dying for them?" She still insisted that the shock which she received by the death of Sholto, and other griefs she had met with, were so severe upon her, that she was perfectly persuaded she would never recover, but considered herself as a dying woman, and one who was soon to appear in the presence of Almighty God, and to whom she must answer. She declared that the children Archie and Sholto were born of her body, and that there was one blessing of which her enemies could not deprive her, which was her innocency, and that she could pray to Almighty God for the life of her other son; that she was not afraid for him, for that God Almighty would take care of him! And what is remarkable, the witness Mary Macrabie observed, that the grief for the loss of the child grew upon her. Would she, my lords, have blessed her surviving child on her death-bed? Would she have died with a lie in her mouth, and perjury in her right hand?—Charity, that thinketh no evil, will not suffer me for a moment to harbour an opinion so cruel and preposterous: or can we suppose, that two people who had not wherewith to support themselves, would be solicitous, and show all the tenderness of parents towards the children of creatures, who, forgetting the first principles of instinct and humanity, had sold their children to people whom they did not so much as know by their names. The act of Joseph's brethren in selling him, is represented as wicked and unnatural, but indeed the crime of Madame Mignon and of Madame Sanry, is still more black and atrocious!—To carry this a little further, suppose lady Jane Douglas had acted this out of a principle of revenge toward the family of Hamilton, yet sir John Stewart had no occasion to do so, much less continue the vindictive farce after her death, especially when married to another spouse. And here we may see sir John as much a parent to the appellant as lady Jane; he was every way fond of him; it is in evidence; I know it to be true: my sister and I have been frequently at Mr. Murray's with them, and were always delighted with the care we observed. No mortal harboured any thoughts of their being false children at that time, I mean in 1750 and 1751. Every person looked upon them as the children of lady Jane Douglas and of colonel Stewart. The countess of Eglington, lord Lindores, and many others, have, upon oath, declared the same thing.

No sooner does the colonel hear of the aspersions raised at Douglas-Castle, and of Mr. Archibald Stewart's swearing that count Douglas, a French nobleman, had informed the duke of Douglas that they had been bought of an hospital, than he returned an answer to Mr. Loch, who gave the intelligence in a letter to Mrs. Hewitt, and wrote him in all the terms of a man of spirit, cordially interested in the welfare and happiness of his son; but he and lady Jane begged the favour of Chevalier Douglas, a French gentleman and officer, then at London, to acquaint his cousin the count with what was said of him. This the chevalier undertook, and fulfilled with the fidelity of a man of honour; and the count, in consequence of the application, wrote a letter not only to lady Jane, but to her brother the duke, in all the language of politeness and humanity, disowning what was said of him.

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But, my lords, the duke of Douglas himself was fully satisfied of the appellant's being the real son of his sister lady Jane; for, on beginning to be known after his marriage, and to relish the pleasures of social life, he became very inquisitive "about the size, shape, and complexion of the appellant, and if he appeared to be a smart boy." He employed sir William Douglas, and others in whom he could confide, to enquire of Mrs. Hewitt, lady Jane's companion, and of Euphemia Caw and Isabel Walker, the two maid servants who had lived with them when abroad, and observed their conduct in the most unguarded moments, concerning the birth of the children; he even searched into the characters of these, and it appears from the depositions of clergymen and gentlemen, of the first rank in that country, that they were women worthy to be believed. He even went in person to visit Mrs. Hewitt, conversed with her in presence of his gentleman, Mr. Greensheils, concerning his sister's delivery; and the accounts given by these, like the radii of a circle, all pointing to one and the same centre, confirming the reality of lady Jane being the mother of the young gentleman; he was satisfied, acknowledged him for his nephew, and left him his heir.

If the duke of Douglas, after so serious an enquiry, was convinced, why should not we? 'Tis true, his grace has sometimes expressed himself warmly against the surname of Hamilton, even in lady Jane's life-time, but never so warmly as to prefer a supposititious child to the duke of that name; for he only declares, "that if he thought the children were lady Jane's, he would never settle his estate on the family of Hamilton;" nor did he, till after detecting the frauds and conspiracies that had been so long and so industriously carried on against his sister and himself, make any alteration in his first settlement.

After the duke's death, the appellant was served heir to his uncle, according to the form prescribed by the law of Scotland, upon an uncontroverted evidence of his being the son of lady Jane Douglas, takes possession of the estate, and is virtually acknowledged heir by the earl of Selkirk, and by the duke of Hamilton's guardians themselves; for these enter actions before the Court of Session, declaring their right to certain parts of the estates, upon some ancient claims which the judges there declared to be groundless; but in the whole action there was not the least intimation that Mr. Douglas was not the son of lady Jane.

It is needless to trouble your lordships with the conduct of the respondent's guardians at Paris, and elsewhere upon the continent. Nothing has been discovered that could throw the least blemish upon the honour of lady Jane Douglas, or colonel Stewart; they have indeed proved her straits there, and his imprisonment here; but both these circumstances carry a further confirmation that the appellant is their son; for in every letter that passed between them, the children are named with a tenderness scarce to be believed; whereas, had they been counterfeits, as pretended, they would have been apt to upbraid one another for an act so manifestly tending to involve them in their sufferings.

Suppose, my lords, that Mignon, the glass manufacturer's wife, the pretended mother of Mr. Douglas, had deposed the same things in lady Jane's presence, as she has so long after her death? From her evidence, it appears that she had never seen lady Jane; by her words, both in private and public, she seems to deserve no manner of credit; the oath of Mr. Murray, a principal witness, has destroyed every thing she has asserted. The same thing might be said of Sanry, the rope-dancer's spouse, whose child's rupture we were earnestly desired to keep in view, to prove him to have been the identical Sholto, the younger of the twins; and now evidence is offered that the child Sholto had no rupture, but was as sound as any within these walls. Your lordships have been told, and I believe with great truth, that a gentleman, shocked at the assertion, had wrote to the counsel, that the influence arising from so false a suggestion might be prevented. I always rejoice to hear truth, which is the ornament of criticism, and the polished gem that decorates a bar.

The scrutiny in France, followed by an action in Scotland, produced two things never intended by them; it brought forth a striking acknowledgment of the appellant, by his father John Stewart, as is manifest from the bond of provision, read at your lordships' bar. Sir John openly acknowledged him, before the Court of Session, in the midst of a crowded multitude, and when labouring under a load of anguish and pain, nay, when by himself, he solemnly declared before God, in the

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presence of a justice of the peace, and two clergymen, that the young gentleman was his son. It likewise established the character of lady Jane; for on examining the proof obtained through the vigilance of the duchess of Douglas, lady Jane's reputation is unsullied and great; all who had the honour of being known to her, declared, that her behaviour attracted universal esteem, and Madame Marie Sophi Gillissen, a maiden lady, with whom she lodged several months, deposes that "lady Jane was very amiable, and gentle as an angel." It further proved, that the elder child, the appellant, was the exact picture of his father; and the child Sholto, as like lady Jane, as ever a child was like a mother.

I have always considered likeness as an argument of a child's being the son of a parent, and the rather, as the distinction between individuals in the human species, is more discernable than in other animals. A man may survey ten thousand people before he sees two faces perfectly alike; and in an army of a hundred thousand men, every one may be known from another. If there should be a likeness of features, there may be a discriminancy of voice, a difference in the gesture, the smile, and various other things; whereas a family likeness runs generally through all these, for in every thing there is a resemblance, as of features, size, attitude, and action; and here it is a question, whether the appellant most resembles his father sir John, or the younger, Sholto, resembled his mother lady Jane? Many witnesses have sworn to Mr. Douglas being of the same form and make of body as his father; he has been known to be the son of colonel Stewart, by persons who had never seen him before; and is so like his elder brother, the present sir John Stewart, that, except by their age, it would be hard to distinguish the one from the other.

If sir John Stewart, the most artless of mankind, was actor in the *enlevement* of Mignon and Sanry's children, he did in a few days what the acutest genius could not accomplish for years. He found two children; the one, the finished model of himself; and the other, the exact picture in miniature of lady Jane. It seems nature had implanted in the children what is not in the parents; for it appears in proof, that in size, complexion, stature, attitude, colour of the hair and eyes, nay, and in every other thing, Mignon and his wife, Sanry and his spouse, were *toto cœlo* different from, and unlike to sir John Stewart and lady Jane Douglas. Among eleven black rabbits there will scarce be found one to produce a white one.

The respondent's cause has been well supported by the ingenuity of its managers, and great stress has been laid upon the not finding out the house where Madame la Brun lived, and where the delivery was effected; but this is no way striking, if we consider that houses are frequently pulled down to make way for streets, and houses are built upon the ground where streets run before: of this there are daily examples in this metropolis. However, we need enter into no arguments of this kind, as there is a positive evidence before us; nor is it possible to credit the witnesses, some of them of a sacred character, when they speak of lady Jane's virtues, provided we can believe her to have been a woman of such abandoned principles as to make a mock of religion, a jest of the sacrament, a scoff of the most solemn oaths, and rush, with a lie in her mouth, and perjury in her right hand, into the presence of the Judge of All, who at once sees the whole art of man, and from whose all-discerning eye no secrecy can screen, before whom neither craft nor artifice can avail, nor yet the ingenuity and wit of lawyers can lessen or exculpate; on all which accounts I am for finding the appellant to be the son of lady Jane Douglas.

Upon which Judgment was given in favour of Mr. Douglas.

Protest against the Judgment given in the Douglas Cause.] But the following Protest was entered:

"Dissentient,

"Because, upon the whole of the evidence, it appears to us that the appellant has not proved himself to be the son of lady Jane Douglas, and consequently not entitled to the character of heir of tailzie and provision to Archibald duke of Douglas.

"Because we are of opinion that it is proved that the appellant is not the son of lady Jane Douglas.—*(Signed)* Bedford, Bristol, C. P. S., Sandwich, Dunmore, Milton."

PROCEEDINGS IN THE COMMONS ON THE EXPULSION of MR. WILKES.*] Nov.

* "Mr. Wilkes's affair early engaged the House of Commons: a petition was brought up by sir Joseph Mawbey, in which all the

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14, 1768. Sir Joseph Mawbey presented the following Petition from Mr. Wilkes:

To the Honourable the Commons of Great Britain in Parliament assembled; The humble Petition of JOHN WILKES, Esq.

"Sheweth,

"That in April 1763 your petitioner, then a member of the honourable House of Commons, was by a general warrant apprehended and carried before the two principal secretaries of state; that he applied by his friends to the Court of Common Pleas for a Habeas Corpus, which was ordered to issue immediately; of this he acquainted the said secretaries at his examination by them, who, notwithstanding, committed your petitioner a close prisoner to the Tower, although charged only with a misdemeanor; that for three days no person was suffered to have access to him; that his house was plundered, his bureaus broke open, and his papers carried away under the said general warrant; that after his discharge from the Tower, by the unanimous judgment of the Court of Common Pleas, he was served with a subpœna from the court of King's-bench upon an information; that counter-notices, signed Summoning Officer, were sent to several of his jury only the day before the trials; that nevertheless the trials came on the day fixed; that the records were materially altered at lord Mansfield's house by his lordship's orders, against the consent of your petitioner's solicitor, only the evening before the trials, witdout the knowledge of your petitioner, he being detained abroad at that time by illness; that the papers seized under the said general warrant were produced as evidence on his trials; that Philip Carteret Webb, esq. then solicitor to the treasury, suborned and bribed, with the public money, one Michael Curry, to give evidence against your petitioner at the trials according to the directions of the said Webb; that your petitioner was in March last elected knight of the shire for the county of Middlesex, in April appeared before the Court of King's-bench, when the said Court committed him to the

proceedings against him since the year 1763 were briefly recited, and the justice of the House was claimed in redressing his grievances; sundry motions ensued; the proper officers were directed to lay before the House a copy of the proceedings in the court of King's bench; and a day being appointed for taking these matters into consideration, it was ordered that due notice should be given to Mr. Wilkes, and to several other parties, who might appear as witnesses. Among them was Mr. Webb, late secretary to the treasury, who being in the petition accused of highly improper conduct, requested an opportunity of vindicating himself, and was allowed to be heard either in person or by counsel.

"Before the petition was discussed, a motion, made for the purpose of ascertaining whether a member convicted of publishing a libel was entitled to privilege, was debated with much acrimony, and at length decided in the negative. At the time appointed for considering his petition, Mr. Wilkes, being brought before the House in custody, objected that, by an act of parliament, he could not legally appear there without taking the oaths; but this objection was over-ruled. On a subsequent day, he took exception to the word 'blasphemous,' used in describing the Essay on Woman; which, after a long debate, was expunged. The evidence in support of the petition substantiated only the undenied fact, that lord Mansfield had altered the record of his indictment the day before the trial. It was clearly demonstrated that the practice of altering records in the manner complained of was ancient, and supported by numberless precedents from the beginning of the law books to that period; and on a solemn argument of the same objection in Westminster-hall, the practice had been confirmed by all the judges. The petition accused Mr. Webb of bribing, with the public money, one Curry, Wilkes's domestic, to steal the Essay on Woman; but this charge was not proved. A vote of severe censure was moved, but afterwards modified into a declaration, that the aspersions in the petition were frivolous.

"Another complaint against Mr. Wilkes was immediately presented. Lord Weymouth, the secretary of state, having in the preceding year, written to the magistrates of Surrey, recommending them no longer to permit tumults to assume so dangerous an aspect, but to make early application for a military force in aid of the civil power; the letter came into Wilkes's possession, and he published it, with an inflammatory and insulting comment, denominating the affair in St. George's Fields a horrid massacre, and the consequence of a hellish project, deliberately planned. Lord Weymouth complained to the House of Lords of a breach of privilege; and the printer of the newspaper acknowledging that he received the letter from Mr. Wilkes, a conference of the Lords and Commons was held. Mr. Wilkes, at the bar of the lower House, triumphantly avowed the publication, and claimed the thanks of the country for having exposed, in a proper light, "that bloody scroll."

"The House being thus in full possession of the necessary evidence, a motion for his expulsion was made, and after a strenuous debate, carried by a considerable majority." Adolphus.

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King's-bench prison; and that in June he was sentenced to a farther imprisonment of twenty-two months in the said prison, where your petitioner now is.

"That your petitioner submits the whole of his case to the wisdom and justice of this honourable House, in the full persuasion of having an effectual and speedy redress of all his grievances. And your petitioner, as in duty bound, shall ever pray."

"From the King's-bench Prison,
November 8, 1768."

This Petition furnished an occasion for the memorable proceedings which followed. At first it was asserted by the minister in the House of Commons, that Mr. Wilkes should prove every part of his Petition. This produced an order for the proper officers to lay before the House a copy of the proceedings upon the several informations in the court of King's-bench, against Mr. Wilkes; after which the Journals and Resolutions of the House upon that subject in the year 1763 being examined, a day was appointed for the hearing of the matter of the Petition, and also of the proceedings in the court of King's-bench, of which notice was ordered to be given to Mr. Wilkes, and a great number of persons who were concerned as actors or witnesses in these transactions, among whom was Mr. Webb, late secretary to the treasury, and against whom a heavy charge was laid in the Petition, were ordered to attend the House at the same time. But in a few days the minister changed his mind, and did not chuse that all the allegations in the Petition should be proved. Accordingly, when a motion was made for an Address to his Majesty, that the auditor of the imprest should lay before the House copies of all such accounts as had been passed, declared, or received, from Philip Carteret Webb, esq. since Midsummer, 1762, it passed in the negative. In the mean time Mr. Webb petitioned for an opportunity to vindicate himself, at the bar of the House, from the charges that were made against him; which he was allowed to do, either by himself or his counsel, at the time of hearing the matter of the Petition. Application having been also made by Mr. Wilkes for liberty to attend the House, in order to support the allegations of his Petition, it was complied with, and liberty of counsel allowed him for that purpose. After these previous steps had been taken, the time for hearing the matter of the Petition, which had been originally fixed for the 2nd of December, was however put off to the 12th of the same month; after which it was finally adjourned to the 27th of January 1769.

January 23, 1769. Mr. Joseph Martin moved, "That John Wilkes, esq. although he is convicted of publishing a seditious libel, is entitled to privilege of parliament." He opened this in a very genteel manner; observed it was not the cause of Mr. Wilkes he pleaded, but of the whole House; that he himself had no acquaintance with that gentleman; had voted against him at his elections, and mentioned his name only as necessary to bring on a question of so much importance to the very being of the House; it was true a vote had passed in the last parliament, that privilege of parliament did not extend to "writing and publishing libels," but that it was necessary the person should be both writer and publisher; that if privilege was taken away for publishing only, not a member of the House could be safe. He hoped the House would take it into their serious consideration, for it was the cause of the whole; and a vote taking away his privilege, would strike a fatal blow at the liberty of parliament.

Lord *North* said, he was glad the hon. gentleman had made such a motion; that it was exceedingly proper to have this affair settled before Friday next, when Mr. Wilkes was to be brought down prisoner to the House, as it would be very improper to bring him down in that manner if entitled to privilege; it therefore should be discussed before that day, but the hon. gentleman's description of Mr. Wilkes did not sufficiently describe him; he therefore moved that it should be added to the motion, "and also of printing and publishing a malignant, obscene, and impious libel, and now stands committed to the King's-bench prison, by virtue of two several judgments of the Court of King's-bench, for the said offences;"

This alteration of the motion entirely changed the question in debate, as it now became the question, whether Mr. Wilkes only in such circumstances was entitled to privilege, and not general as it stood before, on which Mr. Martin, and those who supported his motion, desired to drop it; but the ministry, finding the strength of the ground they were got on, would not suffer it.

Colonel *Luttrell* began a speech by ob-

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serving, that he alone had in the former session of parliament mentioned the name of Wilkes; that if the House had then entered on that business, it would have prevented several disagreeable consequences which had since happened; that the nation was on the brink of ruin through the means of that grand incendiary; that the law, which for pre-eminence was called learned, had suffered in the opinion of the whole nation, either for its inactivity or insufficiency. The ministry disjointed, had never dared to act with that becoming spirit which the dignity of the crown required; through the great ones abetting faction, and the little ones immersed in sedition. Wilkes, the daring, wicked, infamous incendiary, Wilkes, not yet crushed, nay so far from it, seeming to rise on his own or the nation's ruin. He would give the House a history of that man's actions. He begun his career by that most daring of papers the North Briton, in which he had endeavoured to overthrow the Union, to create divisions between the united kingdoms; and lastly, to insult Majesty itself. He then proceeded to give an account of his following actions, but was called to order by

Sir *George Saville*, who observed, that the history of Mr. Wilkes's life had nothing to do with the question; that the gentleman told the story very prettily, but might as well tell any other story, the question being an affair that concerned the House.

Colonel *Luttrell* went on again in the same strain; called Wilkes an infernal parricide; was called to order again, and much personal abuse passed; however, the question was put and carried for the alteration, 165 to 71.

Then the main question, thus amended, being put, "That John Wilkes, esq., although he is convicted of printing and publishing a malignant, seditious, and scandalous, libel, and of printing and publishing three obscene and impious libels, and now stands committed to the King's-bench prison, by virtue of two several judgments in the court of King's-bench, for the said offences, is intitled, by privilege of parliament, to be discharged from his imprisonment for the said offences;" it passed in the negative.

Mr. Martin then moved, "That in entering in the votes of this day the proceedings of the House upon the said question, the original motion be stated, with the proceedings of the House in making the several amendments thereunto." Mr. Martin said, that if this was not done, the world, who knew he had made a motion, would suppose that he had made it as it stood altered by the House, which might hurt his character, his motion being a public one, for public purposes only; that the motion as it now stood, not having any of those requisites, but seeming personal, he could wish to have no hand in it; that so large a majority having agreed to the alteration, the Chancellor of the Exchequer should have all the honour of it to himself. The arguments against this motion were, that freedom of debate should be as sacred as possible, that every act of any particular member, when adopted by the House, was the act of the whole House, and as such should be considered abroad; that the votes were an abstract published to the world of the proceedings of the whole House, and should not tend to throw a particular blame or honour on any person; that in the Journals the state of the case would be seen at large, which was sufficient to establish any member's character to posterity. The House divided on the question, 52 for it, and 96 against it.

January 27. The several orders of the day being read, for hearing the matter of the Petition of John Wilkes, esq. a member of this House, and of the proceedings on several informations in the court of King's-bench against the said Mr. Wilkes; and also for hearing Philip Carteret Webb, esq. by himself or his counsel, against an allegation in the Petition of the said Mr. Wilkes; lord North moved, "That the counsel for Mr. Wilkes be not admitted to be heard upon any of the allegations contained in the said Petition, except the complaint of the records having been materially altered by lord Mansfield's orders; and the charge against Philip Carteret Webb, esq. of having suborned and bribed with the public money, one Michael Curry, to give evidence against Mr. Wilkes according to the directions of the said Mr. Webb."*

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* Hardwicke Papers.—Letter to the Earl of Hardwicke, dated Jan. 28, 1769.

The House sat till twelve last night. The question proposed by lord North was the confining Wilkes's counsel to two points only in his Petition, the alteration of the record by lord Mansfield, and Webb's application of the public money. Wilkes's friends and most of lord Rockingham's, together with the young

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The arguments for the motion were, That as to the other points, namely, general warrants, confinement in the Tower, subpœna, &c. some of them had been determined already, others were now under consideration of the courts below, and consequently, as he could get relief for those things, it was improper to bring them before the House; that as to the breaches of privilege, as they had taken place during the last parliament, they could not properly be called so to this; that most of the matters alluded to in the Petition were not denied, so that there was no necessity for proving them. The principal speakers were lord North, the Attorney General, Mr. Rigby, and sir F. Norton. He spoke very well.

The arguments on the other side were chiefly, that as the Petition had been received, the whole ought to be proved, if the petitioner thought it for his advantage; that one proof followed another so dependently, that it would be difficult to separate them: that justice, humanity, zeal for the constitution, should make it wished for to examine more carefully those points which had indeed been proved to an inferior court, and which could only get redress in the House of Commons. Sir George Saville, Mr. Dowdeswell, Mr. Burke, Serjeant Glynn, and col. Barré were the best speakers on this side, and many bad ones there were on both sides.

Mr. *Burke* observed, that libels were punished very partially; that it was safer to offend and libel the constitution than the minister; that he had three or four in his pocket in which the Revolution was mentioned as the vile cause of all these troubles, Magna Charta was vilified in others, the Bill of Rights condemned, and in short every part of our happy constitution attempted to be overturned, and yet no person was prosecuted for them.

Mr. *Rigby* answered, that those papers (he had but read one of them) were innocent, as they hurt nobody.

Colonel *Barré* gave Mr. Rigby a pretty trimming for this; as he was a minister, he supposed he spoke the language of the whole; that Mr. Rigby was very well off—could turn himself well in his bed—as he had a whole one to himself. He did not envy him, but would not take his place to adopt his principles. He concluded with saying he would give the ministry some advice: there were but two ways to destroy Mr. Wilkes's popularity; the first to grant him a free pardon, which would go a great way towards it; but if you want to do it effectually—take him into the ministry.

On the division the Ministry were 278, and the Opposition 131.

Mr. Wilkes was then brought to the bar, and the Speaker acquainted his counsel with the said Resolution:

And Mr. Wilkes having submitted to the House, whether he, being elected a knight of the shire for the county of Middlesex, could be at the bar of the House, without delivering in his qualification, and taking the oath required by an act passed in the 33d year of his late majesty's reign, intituled, "An Act to enforce, and render more effectual, the laws relating to the qualification of members to sit in the House of Commons;" he was directed to withdraw. And the said Act was read.

Resolved, "That Mr. Wilkes be again brought in, and that Mr. Speaker do acquaint him, that his being in custody at the bar, with his counsel, in order to support the allegations of his Petition, without having taken the oaths, or delivered in his qualification at the table, is not any offence within the intent and meaning of any act of parliament made relative to the qualification of members to serve in parliament."

Mr. Wilkes was then remanded to prison, and the further hearing of the Petition was adjourned to the 31st.

January 31. The several orders of the day being read, for the further hearing of the matter of so much of the Petition of John Wilkes, esq. as this House has directed to be heard; and of the proceedings on several informations in the court of King's-bench against the said Mr.

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patriots, were for taking in the whole, sir Joseph Mawbey taking the conduct and lead. Mr. Grenville thought with lord North, and defended the limitation. On a division, for lord North's motion 278, against it 131.

Wilkes and his counsel were then called in, and informed of this. Wilkes told us, that as a member of parliament he desired to tender his qualification according to act of parliament, and be sworn. He was desired to withdraw, and the House, after some small debate, came to a Resolution that in his circumstances this was not necessary. He with his counsel were called in again, and apprized of this second Resolution, to which he said nothing, and the remainder of this business was adjourned to Tuesday. Lord March and Sandwich were present.

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Wilkes; and also the hearing of Philip Carteret Webb, esq. by himself or his counsel; Mr. Wilkes was brought in, to the bar. And the counsel on both sides were called in.

And Mr. Wilkes having submitted to the House, that the entries in the votes of this House, of the 23d and 24th of November last, of the title of the copy of the record of the proceedings on an information in the court of King's-bench against the said Mr. Wilkes, for blasphemy, were not founded, there being no such record for 'blasphemy' existing; he was directed to withdraw; and the further hearing of the said matters were adjourned for a quarter of an hour.

A motion was then made, That the endorsement of the said copy be altered, by erasing the word 'blasphemy,' and inserting the words, 'Three obscene and impious libels,' instead thereof; the said motion was, with leave of the House, withdrawn.

Ordered, "That the entries in the votes, of the titles of the copies of the records presented to this House upon the 23d of November last, be so altered, as particularly to express that the words, 'for a libel,' and 'for blasphemy,' contained in the said entries, were part of the titles indorsed by the officer who presented the said copies, and no part of the said records; nor intended to convey any opinion of the House concerning them."

The arguments for the words standing were, that no one reading the Essay on Woman, or No. 45, of the North Briton, but must be entirely convinced in his own mind that they were libels, and blasphemous; that a title on the back did not make them what they were not; and that it was usual always to entitle a paper by its contents; on the other hand it was asserted, that there was no such thing as a blasphemous libel: blasphemy there was, but that Mr. Wilkes had not been found guilty of that crime; that several words were used in the information as in indictments, which had no strict relation to the crime (as an indictment for a trespass, which runs 'wickedly, &c. with force and arms,' &c.) and an indorsement on the back of such indictment would only say for a trespass; that the words 'blasphemous libel,' as they were not therefore applicable to Mr. Wilkes, could only serve the purpose of blackening him. An indorsement on the back of the paper, should be only the title, and not the contents; and the title should not convey any higher idea, or more exaggerate, than what is the real case.

Mr. Wilkes then proceeded with his evidence; he proved the alteration of the records by lord Mansfield, but failed in proving the accusation against P. C. Webb, for suborning with the "public money," Curry his servant to betray him, and steal the Essay on Woman.

The further hearing of the matters of the said Petition was adjourned to the following day.

February 1. Mr. Blackstone opened the debate with observing on the evidence as to the alteration of records. He observed that there were numberless precedents of such alterations from the beginning of the law books to the present time, and that therefore a practice so well established must be legal: he said, that in the present case, on Mr. Wilkes's motion it had been debated in Westminster-hall, and the practice confirmed on the opinion of all the judges; Mr. Wilkes in his Petition, by leaving out that circumstance, had thrown the most gross aspersions on lord Mansfield, he therefore moved, "That it having been determined by the court of King's-bench, that the two Orders made by lord Mansfield, chief justice of the said court, for the Amendment of the Informations exhibited in the same against Mr. Wilkes, were according to law and justice, and the practice of the said court, the Complaint of Mr. Wilkes, in respect thereof, is an audacious aspersion upon the said Chief Justice, calculated to convey a gross misrepresentation of the fact, and to prejudice the minds of the people against the administration of public justice." He was seconded by

Mr. *Payne*, who delivered a set speech. His chief argument run on the suppositions, that because a clerk had blundered in his drawing indictments, a prisoner should escape justice; or because a judge could not amend his faults.

Sir *F. Norton* on the same side added, that Mr. Wilkes's Petition was true in letter, but substantially false. Several more spoke on the same side, with nearly the same arguments.

The Opposition (the Speakers as usual) did not much deny the legality of what lord Mansfield had done, but attempted to shew the danger of that practice, as it left so much in the power of a judge; that it was a practice confined to civil actions,

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and informations by the Attorney General *ex officio*; that in criminal cases, indictments, &c. not a tittle could be altered, but the prisoner might avail himself of all blunders; that it was not usual to censure a man for his petition who had proved the allegations of it; and that the imputations were more on the practice of the law itself than on lord Mansfield; that therefore there was no occasion to vindicate with so high a hand, a character not aspersed by it.

Mr. *Grenville* at twelve at night spoke pretty much to the same purport, and offered an amendment to the motion, by leaving out the words 'audacious aspersion,' and qualifying the rest, which both parties agreed to, and the Resolution passed as follows:

Resolved, "That the two Orders made by lord Mansfield, chief justice of the court of King's-bench, for the Amendment of the Informations exhibited in the said court against Mr. Wilkes, were according to law and justice, and the practice of the said court, and confirmed by the subsequent determination of the said Court; and that the complaint of Mr. Wilkes, in respect thereof, is frivolous; and that the aspersions upon the said Chief Justice, for making the said two orders, thereby conveyed, are utterly groundless, and tend to prejudice the minds of the people against the administration of public justice."

Resolved, That Mr. Wilkes has not make good his charge against Philip Carteret Webb, esq.

The further consideration of the matters of the said Petition was then adjourned to the next day.

February 2. Mr. Wilkes was brought in, and asked what defence he could make concerning the Prefatory Letter to lord Weymouth's Letter to the Justices. He said nearly the following words: "Sir, I was the person who sent lord Weymouth's letter to the printer, and I do glory in confessing myself the author and publisher of the Prefatory Letter. I thought it my duty to bring to light that bloody scroll. Were I permitted, I could bring such evidence, as would induce this hon. House, not only to entertain the same sentiments on it with myself, but also to forward an impeachment on the noble lord who wrote it. I shall never deny what I look on as a meritorious action, and for which I ought to have your thanks."

The House being now possessed of all the evidence against Mr. Wilkes for writing this, entered into a debate on the censure they ought to give it. It was moved by the Attorney General to agree with the Lords in calling it "an insolent, scandalous, and seditious libel." The chief arguments were a description of the state London was in at the time of the elections, the mobs in St. George's Fields, &c. and the clamour universally made for the ministry to exert themselves: that government being trampled on in such an audacious manner, the civil magistrates unable to put the laws in execution—the constables a part of the mob—there was no remedy but to apply the military: that this letter was no other than to let the justices know where they might find soldiers ready to attend them: that a secretary of state, having done his duty, ought to receive the approbation of the Commons, and a person traducing him, be punished for it.

On the contrary it was argued, that the House of Commons were not proper judges of libels; that lord Weymouth might more properly get his remedy in a court of law; that this was not a libel against government or the constitution, but only against a minister; and that the House, in making themselves judges in this affair, would involve themselves in complaints of the same sort from every minister who should think himself libelled; that the assistance of the military should never be called for but at the last extremity, and that no such extremity subsisted in St. George's Fields.

The following Resolution was then agreed to, on a division of 239 to 136:

Resolved, "That the Introduction to the copy of a letter, addressed to Daniel Ponton, esq. chairman of the quarter sessions at Lambeth, and dated St. James's, the 17th April, 1768, contained in a certain newspaper, intituled, "The Saint James's Chronicle, or the British Evening Post, from Thursday December the 8th, to Saturday December the 10th, 1768, printed by Henry Baldwin, at the Britannia printing office, No. 108 Fleet Street," of which Introduction John Wilkes, esq., a member of this House, has now at the bar of this House, confessed himself to be the author and publisher, is an insolent, scandalous, and seditious libel, tending to inflame and stir up the minds of his Majesty's subjects to sedition, and to a total subversion of all good order and legal government."

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February 3. Lord Barrington this day moved Mr. Wilkes's expulsion; he was seconded by Mr. Rigby. The motion was in these words:

"That John Wilkes, esq., a member of this House, who hath at the bar of this House confessed himself to be the author and publisher of what this House has resolved to be an insolent, scandalous, and seditious libel, and who has been convicted in the court of King's-bench, of having printed and published a seditious libel, and three obscene and impious libels, and by the judgment of the said Court, has been sentenced to undergo 22 months imprisonment, and is now in execution under the said judgment, be expelled this House."

The arguments for his expulsion were founded on the badness of the man, and the impropriety of suffering such a one to be part of the legislature. The different parts of the accusation were expatiated on by lord Barrington, lord F. Campbell, lord North, Mr. Blackstone, Mr. De Grey, Mr. Nares, &c. The Opposition were, Mr. Burke, Mr. Dowdeswell, Mr. Pitt, Mr. Beckford, Mr. Cornwall, and Mr. Grenville, whose speech having been printed, we shall insert it at the end of this day's account. Their chief argument was against accumulated crimes in an accusation, as it was possible for him to be expelled even by a minority: for instance, 50 might think he should be expelled for the No. 45; 50 more might think so for the Essay on Woman; and 50 more for the libel on lord Weymouth's Letter, though each of these might acquit him of the other accusations; whilst an hundred might entirely acquit him, and yet the three fifties joining together would expel him: that though No. 45, and the Essay on Woman, being crimes he had been guilty of during the last parliament, and by which he had been expelled for writing them, he ought not be again punished for them; that it was taking away the right of the freeholders of Middlesex, who had looked on him as fit to represent them, though he had been guilty of those two accusations; that as to the libel on lord Weymouth, if he was expelled for that, the House of Commons would become the instruments of vengeance to any lord who should be libelled; that the Commons were destroying the fundamental constitution, and if publishing libels was to be cause to expel a member, the whole House stood on a very ticklish foundation. However the ministry carried it 219 to 137, and (to use the words of Mr. Burke) the fifth act of this tragi-comedy is over: a tragi-comedy acted by his "Majesty's servants," at the desire of several "persons of quality," for the benefit of Mr. Wilkes, and at the expence of the constitution.

The SPEECH of the right hon. GEORGE GRENVILLE, on the 3rd of February, 1769, against the motion for expelling Mr. Wilkes.*

Mr. Speaker; I have endeavoured to form my judgment with regard to this

* From the original edition, printed in 1769, by John Almon, with the following Advertisement.

"Minutes of the following Speech having been taken at the time it was made, and some copies having been handed about, one of them fell into the possession of the publisher; but, before he would offer it to the public, he submitted it to the perusal of some gentlemen, who had heard the Speech delivered, and whose accurate and retentive memories have supplied every defect in the minutes. He can therefore now venture to vouch for its authenticity; and assures the public, it is really and literally what the title imports it to be, the Speech of a right honourable gentleman, upon the motion for expelling Mr. Wilkes the first time from his seat in the present parliament for the county of Middlesex. Though at the same time he is bound in justice to inform them, that it is published without the approbation, consent, or knowledge, of the right hon. gentleman who made it.

"To prevent the reader from confounding the subsequent proceedings against Mr. Wilkes with that which gave occasion to this Speech, the fatal consequences of which are therein so clearly predicted, it may be proper to remark, that Mr. Wilkes was first elected for the county of Middlesex, on the 28th of March, 1768; that he was expelled on the 3rd of February, 1769, the day on which this Speech was delivered; that he was re-chosen for Middlesex the 16th day of the same month; that his election was declared void, and himself declared incapable of being elected into the present parliament, on the 17th day of the same month; that he was again elected on the 16th day of March, when no other candidate appeared, except Mr. Dingley, who had not one vote; that his election was again declared void on the 17th of the same month; that on the 13th of April he was returned by the sheriffs, as having 1,143 votes, and col. Luttrell only 296. That on the 15th day of the same month, the House of Commons voted, 'That Mr. Luttrell ought to have been returned;' and that gentleman took his seat accordingly. That a Petition from

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question, which was not unexpected, upon the fullest and most impartial consideration; and having done so, I do not think myself obliged to make the least apology to any individual, or body of men whatsoever, for the opinion which I shall deliver upon this subject.

I should indeed have wished that I could with propriety have declined delivering my sentiments concerning it, because I am thoroughly sensible that whatever my opinion shall be, it will be liable to great misconstructions and misrepresentations, both within these walls and without doors. If I give my vote for the motion as it was made to you, it will be said, that I do it from a cruel unrelenting disposition, to gratify a private and personal resentment for the abuse Mr. Wilkes has so liberally thrown upon me, and for that purpose, under the mask of zeal for the cause of God and of the King, to persevere in loading an unhappy man, who, it has been frequently said in this House, has been already too severely oppressed by my means, or at least with my concurrence; or it would perhaps be attributed, especially after the temperate conduct which I have endeavoured to hold during this session, to an abject flattery to power, with the mean paltry view of obtaining court favour. On the other hand, if I give my vote against the expulsion of Mr. Wilkes, I shall be charged with levity and inconsistency, with changing my opinions as it may best suit my situation either in or out of office; with adopting new principles from new habitudes and connections, and with a factious design of courting popularity, and distressing all legal government, by supporting and protecting a man, whose behaviour I had so repeatedly and so heavily censured. If I know my own failings, revenge and cruelty are among the vices to which I am least inclined; and if I may trust to the reproaches thrown out against me by my enemies, I have been often accused of obstinacy and inflexibility of temper, but seldom or never I think with being too much disposed to alter my opinions according to the will of others, or to sail along the tide of popular prejudice. I should flatter myself, therefore, that the charge of sacrificing principles to court favour or popular applause, could not with justice be applied to me, notwithstanding which I will again freely own, that I should have wished for many reasons not to have been under the necessity of deciding upon this question, either one way or the other. But as it has been proposed to you, I think it would be a base and unworthy conduct meanly to hide my head, or to run away from the difficulty. On the contrary, it is the duty of every honest man, if he is convinced that the judgment which he has formed is a right one, to declare it publicly in his place, to abide by it, and boldly to face any difficulties which may encounter it. I am under no restraint either from this or that side of the House; I know and feel my own independence on both; and while I continue here, I will exert it; and upon this occasion execute an office greater than any which the wildest applause of the multitude can give, or than the King himself can bestow, greater than the office of first commissioner of the treasury, or either of the secretaries of state: the honourable and noble office of speaking the truth, and of doing impartial justice. I will not palliate this man's offences, or try to move your compassion: for that would be to appeal to your weakness against your judgment: much less will I inveigh against him in bitter terms, and strive to excite your indignation; for, instead of your weakness, I should then apply to your wicked passions. With these sentiments I shall proceed to the immediate examination of the question before you. And, in the first place, I cannot agree with those who have urged in behalf of Mr. Wilkes, that this motion ought not to be complied with, because he is already the most unhappy, as well as the most oppressed and injured man that this age has seen: he is indeed unhappy, because he is guilty, and guilt must ever produce unhappiness: but, in other respects, considering his repeated offences, he has certainly been more fortunate than his most sanguine wishes could have expected. I mean not to enter into the detail of all that has happened to him, it would carry me too far; but, to justify what I have said, let me ask a few questions. When he wrote that seditious libel against the King and both Houses of Parliament, could he foresee that he should be taken up by a General Warrant, against the declared opinion and desire of the two Secretaries of State, who repeatedly pro-

several freeholders of the county of Middlesex having been presented against Mr. Luttrell on the 29th of April, the House of Commons voted, on the 8th of May, 'That Henry Lawes Luttrell, esq. is duly elected a knight of the shire, to serve in this present parliament, for the county of Middlesex.'"

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posed to have his name inserted in the warrant of apprehension, but were overruled by the lawyers and clerks of the office, who insisted they could not depart from the long-established precedents and course of proceedings? Could Mr. Wilkes foresee, that after an hundred years practice, under the eye of the greatest lawyers, before the supreme courts of justice, without being ever questioned in one single instance, that this irregularity and illegality would be first found out in his case, and afterwards adopted by the voice and clamour of the people upon the occasion of his apprehension? Had he been tried and convicted without this irregularity, what would have been his situation, and where his popularity and the liberal support which he has met with? What would have become of the large damages which he has already obtained by this means, or the immense sums which he now sues for, and on which he places his last dependance? Are these the proofs that he has been the most unfortunate, or is it more true that he has been the most oppressed and injured man this age has seen? Dr. Shebbeare was taken up by a General Warrant from the Secretary of State, dated 12th January 1758, conceived word for word in the same terms, for writing the sixth Letter to the People of England on the progress of national ruin, in which is shewn, that the present grandeur of France and calamities of this nation are owing to the influence of Hanover on the councils of England. Under this General Warrant, all his papers were seized as in the case of Mr. Wilkes, and he was prosecuted for this offence by Mr. Pratt, then Attorney General, now lord chancellor of Great Britain. He was tried and convicted of it on the 17th of May, and on the 28th of November following he was sentenced to be fined, to stand in the pillory, to be imprisoned for three years, and then to give security for his good behaviour for seven years. The prosecution against Mr. Wilkes was directed by the unanimous Address of both Houses of Parliament. He was tried and convicted by a favourable jury, for a libel certainly not less seditious or criminal than Dr. Shebbeare's. He was sentenced to be fined 500*l.*, and to be imprisoned for one year instead of three years, to give security for his good behaviour for seven years, and the ignominious part of the punishment was wholly remitted. He was tried and convicted likewise for being the author and publisher of the three obscence and impious libels, upon a prosecution directed in consequence of an Address from the House of Lords, for which he received exactly the same sentence as for the former offence, including the two months imprisonment, which he had suffered before judgment was given. Was he for either of these offences, or indeed for all them taken together, so severely dealt with as Dr. Shebbeare for one alone? I do not go any further back, though a multitude of similar instances, and some more severe even than that of Dr. Shebbeare, might be produced within these last forty or fifty years. What I have already mentioned seems to me fully sufficient to shew, that Mr. Wilkes is not entitled to any extraordinary favour on the present occasion, from the plea of his having been the object of extraordinary severity during the course of the former proceedings. But, though not to favour, yet he is most certainly entitled to that justice which is due to every man, and which we ought to be more particularly careful to preserve, in an instance where passion and prejudice may both concur in the violation of it. These are principles which no one will dispute with me, and in consequence of them, after having thoroughly considered the charge contained in your question, and the arguments urged in support of it, I am clearly of opinion, that I ought not to give my assent to the proposition which has been made to you; because if I did, I should thereby commit a capital injustice. I am sensible that the expression is a strong one, and that it is incumbent upon me to shew my reasons for applying it to the motion now under your consideration, which I shall endeavour to do as fully and as satisfactorily as I am able.

I perfectly agree with the hon. gentleman (Mr. Dyson) who has told you, that this House has a right to enquire into the conduct of its members, and that they have exercised that right in a great variety of instances, in which they have tried, censured, and expelled them, according to the established course of our proceedings, and the law of parliament, which is part of the law of the kingdom. Let us examine the proposition now before you by this rule, and we shall then be able to judge whether it is conformable to the usage and law of parliament, to the practice of any other court of justice in the kingdom, or to the unalterable principles of natural equity, or whether it is a new and dangerous mode of proceeding, un-

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supported by any precedent or example in the journals of parliament, or the records of any other court, calculated merely to serve a present purpose, and as such, well deserving the term which I gave to it of a capital injustice. The charge contained in this motion consists of four articles, each of which, it has been contended, is sufficient, singly, to justify the conclusion drawn from them all put together, that Mr. Wilkes ought to be expelled. Upon this complicated charge, the House is now called upon to give a judgment for or against the question. It is a well known and undeniable rule in this House, founded in common sense, that whenever a question, even of the most trivial nature, is complicated, and contains different branches, every individual member has an indubitable right to have the question separated, that he may not be obliged to approve or disapprove in the lump, but that every part of the proposition should stand or fall abstractedly upon its own merits. I need not shew the propriety and the absolute necessity for this; it is so self evident, that every argument I could urge in support of it would only weaken it. And surely if it holds good in all cases where we act only in a deliberative capacity, it will not be contended, that it is less true, or less necessary, when we are to exercise our judicial powers, when we are to censure and to punish, and to affect not only the rights of our own member, but the franchises of those who sent him hither as their representative; I may safely challenge the gentlemen, the most knowing in the journals of this House, to produce a single precedent of a similar nature. And if none shall be produced, as I am convinced there cannot, am I not founded in saying, that this is a new attempt, unsupported by law and usage of parliament?

But this mode of proceeding is not only new and unprecedented, it is likewise dangerous and unjust. For the proof of it, let me recall to your minds what has passed in the course of this debate; one very learned and worthy gentleman (Mr. Blackstone), who spoke early, declared, that he gave his consent to this motion for expulsion, upon that article of the charge alone which relates to the three obscene and impious libels; disavowing, in the most direct terms, all the other articles; because he thought, that the libel relative to lord Weymouth's letter was not properly and regularly brought before us, and that Mr. Wilkes, having been already expelled by a former parliament, for the seditious libel of the North Briton, ought not to be punished and expelled a second time, by a subsequent parliament, for the same offence. His argument was, that the former House of Commons having vindicated the honour of the King and of parliament, he hoped this House would not shew less zeal to vindicate the cause of God and of religion. He spoke with a becoming zeal and indignation, raised, as he told us, by having read some of the wicked and impious expressions contained in the record now upon your table. His opinions, which were soon after followed by another learned gentleman (Mr. Serjeant Nares), who adopted the same train of reasoning, joined to the serious manner in which he delivered them, seemed to make great impression upon the House; and though I differ with him in his conclusion, yet I agree with him in his principles, and was glad to see this offence treated as it ought to be. For, if we treat it with mirth and levity, we in some measure justify the libel itself by our conduct, and share the guilt of the author. On the other hand, what were the arguments of the two noble lords (lord Frederick Campbell, and lord Palmerston), who spoke lately for the expulsion? They agreed indeed with the learned gentlemen in the conclusion, but differed widely in the premises, with regard to the articles of the charge on which they founded their judgment. They both disclaimed the article of the three obscene impious libels as any ground for this proceeding. They expressed their disapprobation of the manner in which the copy of them was obtained from Mr. Wilkes's servant, and their doubts with regard to his intention to publish them. One of them therefore desired to draw a veil over that part of the charge that it might no more be mentioned; and the other wished to bury the whole of that transaction in oblivion. The first, waving the rest of the charge, grounded his assent to the motion upon the seditious libel of the North Briton; the latter, if I mistake not, upon the libel against lord Weymouth. These sentiments likewise seemed to meet with great approbation from many of your members. Another hon. gentleman (Mr. Dyson), who is very conversant in the journals of the House, and could not therefore but be sensible both of the novelty and danger of this proceeding upon such an accumulated and

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complicated charge, thought it necessary to take a different ground. He seemed to wave the criminal parts of the charge, but insisted strongly upon Mr. Wilkes's incapacity of continuing a member of parliament, arising from his imprisonment, which the House had declared to be no case of privilege, and from which they could not therefore discharge him.

I have stated these arguments, and I appeal to the House whether I have misrepresented them. I might in the same manner go through the rest of this debate: I think not above two gentlemen, who have not spoken together, have agreed in assigning the same offence as the proper ground for this expulsion. It is impossible to form any judgment concerning the sentiments of those who have not spoken, except from those who have, and from the approbation which has been given to what they declared. If I am to judge from thence, I should imagine, that the opinions of those who concur in this question of expulsion, are almost equally divided among the several branches of the charge contained in it: but however that may be, it is undeniably true, that great numbers of gentlemen approve of some parts of the charge, and disapprove of others, and so *vice versa*. What, then, may be the consequence of blending the whole of this matter together? Is it not evident, that by this unworthy artifice, Mr. Wilkes may be expelled, although three parts in four of those who expel him should have declared against his expulsion upon every one of the articles contained in this charge? Would not this severe punishment be inflicted upon him, in that case, by a minority, against the sense and judgment of a great majority of this House?

To explain this in a manner obvious to the apprehension of every gentleman who hears me, let me suppose, that an indictment were framed, consisting of four distinct offences, each inferring the penalty of death; charging, for example, that the prisoner on the first of May had committed treason; on the first of June, murder; on the first of July, robbery; and on the first of August, forgery. Let me suppose any court of judicature in the kingdom ignorant and wicked enough to admit of, and to try the prisoner upon such a complicated indictment, notwithstanding any objection he could make to it. Might he not be found guilty of each of these offences by three different jurymen, and declared innocent by nine, and would he not in fact, by this contrivance, be condemned to death by three, although acquitted by nine? What would mankind, what would you yourselves say of such a sentence so obtained? Would you not think the term of capital injustice too soft an expression? Would you not call it the worst of murders, a murder under the colour of law and justice? The punishment would indeed be different, because the offences are so; but the mode of proceeding on the present occasion is exactly the same, and equally inconsistent with the law and usage of parliament, with the practice of every court of judicature in any civilized country, and with the unalterable principles of natural equity. But I will restrain my expressions, and leave this part of the question to your own feelings, which I am persuaded will enforce it more strongly than any arguments of mine.

I have hitherto taken the whole of this complicated charge together, and have shown the dangerous consequences resulting from it: I will now unravel the web, and consider the different parts of it separately and distinctly. The first which presents itself is the libel relative to lord Weymouth's letter, which has been new christened for this special purpose. It was complained of in the other House as a breach of privilege, and as a gross and impudent libel, which it certainly is; against a peer of the realm, and one of his Majesty's principal Secretaries of State. But when it appeared to be written by Mr. Wilkes, it was to change its name and its nature. The particular complaint, and all mention of the noble lord concerned in it, was to be dropped, and it became at once a matter of sedition against the state. With what view was this alteration made? Why did not the House of Lords address the King to have it prosecuted by the Attorney General, in the same manner as was done with regard to the three obscene and impious libels which were written by the same person then a member of this House, and were likewise complained of as a breach of privilege against a peer of parliament? What was the motive for this difference of proceeding in the other House, on two offences of the same nature against the same person? It was not out of regard to us and to our privileges, for they well knew that we had joined with them in a solemn declaration that in this case there was no privilege, and they themselves had proceeded in consequence of it against this very man, then a mem-

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ber of parliament, for a similar offence, without communicating it to the House of Commons. Can any reason be assigned for this, except a desire in their lordships to shift the jurisdiction, and, instead of sending it to the courts of law, where libels against ministers have hitherto always been tried, to transmit it to us to be punished, contrary to all precedent and example, by an extraordinary extension of our judicature? And will this House, whose peculiar duty it is to watch over and to guard the laws of the land from all encroachments, and who have looked with the most jealous eye upon every act which has the least tendency to exempt the peers of the realm, and their causes, from that jurisdiction which is common to all; will this House, I say, lend its name to such an evasion, and extend its judicature for such a purpose? Shall we take upon ourselves so odious an office, and answer such a demand at sight, with no other view than to save their lordships the difficulty and obloquy which is the usual consequence of these prosecutions? If this attempt should succeed, and so easy and summary a method should be marked out for the punishment of those who shall libel ministers of state, this probably will not be the last application which we shall receive of this nature. We have enough to do, too much I fear, to maintain our own authority and dignity unimpeached, and surely the other House has sufficient power in themselves, with the assistance of the courts of law, to vindicate their members from every insult.

The next article is that of the seditious libel the North Briton, for which, the author and publisher were deservedly prosecuted, tried and convicted five years ago, in consequence of the unanimous address of both Houses of Parliament. He was likewise expelled by the last House of Commons for the indignity offered to them by one of their own members, of which they were the only judges, and which they alone could punish; a case so widely different from that of a libel on any particular person or minister of state, that it is quite unnecessary to do more than to mark it out to your observation. For this libel of the North Briton Mr. Wilkes has been sentenced, and is now undergoing the punishment inflicted on him by law. He has likewise been punished by expulsion from the former House of Commons for the particular offence committed against them. There is not a rule more sacred in the jurisprudence of this country, than that a man once acquitted or condemned, shall not be tried or punished again by the same judicature for the same offence. How many notorious criminals daily escape by the direct observance of this rule, and yet the principle of it is so salutary and so deeply rooted in the minds of men, that no one dares to set his face against it, and to avow an intention to break through it. It was but a few days ago that I spoke and voted to restrain Mr. Wilkes from entering into the greater part of his Petition, because the subject matter of his complaint had been fully heard, and the parties to it duly acquitted by the last House of Commons. The House, after long debate, adopted the reasoning, and Mr. Wilkes was restrained accordingly.

And shall I, within the little space of a few days, forget every argument which I then used against him, and declare without shame that the same rule of law, which was conclusive when urged in behalf of his adversaries, should in the same cause be of no avail when pleaded in his favour? Is this that consistency upon which I, and those who hear me, are to value ourselves? I have not taken up that sacred principle so lightly, nor will I so wantonly depart from it. Permit me to give you an instance of it. Many years ago, a proposition was made to allow of a revision of the sentence of a court-martial. The question was solemnly argued. I then sat at the treasury board with a minister (Mr. Pelham,)for whom I had the highest personal regard and respect; and yet in opposition to him, and to the sentiments of those (lord Temple and lord Chatham), with whom I was connected by the nearest ties both of blood and friendship, I repeatedly voted and spoke against that revision, in conjunction with a noble person (lord Lyttelton), who then sat at the same board with me, and an hon. gentleman (general Conway), an officer of the army, who afterwards held the office of one of his Majesty's principal secretaries of state, who now hears me, and to whom I appeal for the truth of what I have said upon this subject. Is not this the revision of a sentence given in a former parliament in order to increase it? And if this motion for the expulsion of Mr. Wilkes, as grounded upon that offence, shall prevail, will he not be twice expelled and twice punished for one crime by the same judicature, in direct violation of that salutary

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principle, to the truth of which we ourselves have so lately assented?

The third article contained in the charge is for printing and publishing three impious and obscene libels, under the title of the Essay upon Woman; I trust that none who hear me, I am sure that no one who knows me, will believe, that I mean to palliate that crime, or the seditious and dangerous libel which I have now mentioned. I will go further; I cannot agree with those who think, that the papers relative to it were obtained by those who prosecuted him in any undue or improper manner. The contrary has appeared by Mr. Wilkes's own evidence a few days ago. That prosecution was begun in another place, and I had nothing to do with it; but in justice to those who were concerned, I must say, that there was not the least foundation for all that calumny that has been propagated with regard to the manner of obtaining them, for the truth of which I appeal to the examination which the House has so lately made on Mr. Wilkes's Petition on that subject. I must therefore freely declare, that this observation has no weight with me. The other part of the objection is founded upon the evidence given at your bar, that Mr. Wilkes had directed only twelve copies of them to be printed, and had strictly ordered, that they should all be delivered into his own hands, from whence it is urged, that he had no intention to publish them at large. This may be, indeed, a circumstance of alleviation, which I am the more authorized to say, as I am informed it was mentioned by the learned judge, in mitigation of the sentence given against him in the court of King's-bench. But the strongest plea in his defence upon this head is, that the crime was committed five years ago; that the law has already punished it; that the last House of Commons, though they were not ignorant of it when they proceeded against him, and certainly were not partial to him, yet, as they were not particularly concerned, did not think it right for them to interfere in it. It might, therefore, be thought a hardship to him to let it pass unnoticed by them, and many years after to transfer it to another parliament, and to reserve it in so unusual a manner for a fresh censure.

The last article of this complicated charge is, that Mr. Wilkes has been sentenced by the judgment of the Court of King's-bench to undergo 22 months imprisonment, and that he is now in execution under that judgment. This circumstance has been principally relied upon and enforced by an hon. gentleman (Mr. Dyson), who has laboured very strongly to prove that, as Mr. Wilkes is thereby disabled from taking his seat, and doing his duty for 16 months to come, this disability alone is a proper and sufficient ground to justify the proposition which has been made to you for expelling him. You have been told very truly, that his constituents have the clearest and most undeniable right to the attendance of their representative in parliament; that there is no privilege which we are or ought to be so tender of as to free our members from the least restraint, which may prevent or even interrupt them in the exercise of their duty; that this consideration is of such infinite moment, that the unusual course of justice in all civil cases is to give way to it and be suspended, in order to preserve the right of our constituents from being violated in the smallest degree: that we have already declared that Mr. Wilkes is not entitled by privilege of parliament to be discharged from his imprisonment, and that we have no other method to enforce the attendance of our members: that under these circumstances he would for a long time to come be utterly disabled from performing that duty which he owes to his constituents, unless the King should be pleased to pardon him, which would, in effect, be leaving to the option of the crown to determine, whether one of our members should or should not take his seat in this House. I entirely concur with the general positions which have been laid down as the foundation of this argument, but I differ extremely in the consequences which have been drawn from it, and think that I can shew to a demonstration, that by the law and constant usage of parliament, the inability of attending his duty for the space of a year or two has never been deemed a sufficient reason for the expulsion of a member. I say his inability, for his imprisonment has justly been stated, not as a fresh crime, but as an inability in him to attend, and in the House to reclaim him. The proposition therefore is, that whenever a member is restrained from doing his duty here, and that the House cannot compel his attendance without the immediate interposition and consent of the crown, in all such cases the House is bound by the law and practice of parliament to proceed to an expulsion of the member so disabled.

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Let us see how far this doctrine is warranted by former precedents. Not one has been produced in support of it. On the contrary, need I put that gentleman in mind of a multitude of examples, many of which have happened in our own time, which prove the very reverse of it? Does he not remember the case of lord Barrymore and sir John Douglas, both of them members of this House, who were imprisoned upon the suspension of the Habeas Corpus Act for a longer period of time than Mr. Wilkes, and who could not be delivered from that imprisonment without the interposition and consent of the crown? Many cases of a similar nature must be fresh in the memory of us all; but there is one which I cannot mention without a particular respect and reverence to the person concerned in it. I mean the case of sir William Wyndham. He was imprisoned in the Tower for upwards of two years, during which time the county which he represented, and the public in general, were deprived of those services for which he was so eminently qualified, and which he performed with so much honor to himself and advantage to them. But though the times were warm and violent, and many wished to get rid of those abilities which they were well acquainted with, yet no man ventured in that or any of the other instances to maintain the doctrine now laid down, that because the parties were restrained from their attendance here by a legal imprisonment, from which this House could not deliver them without the interposition and consent of the crown, they therefore ought by the law and constitution of parliament to be expelled. I am well aware that in these cases it may be said, the parties had not been convicted, that there is therefore a great difference as to the certainty of the crime imputed to them. It is true, and God forbid that I should draw any parallel of that kind, but with regard to the restraint abstracted from the crime, which is made the only foundation of this part of the argument, it is exactly the same as in the present instance. Nor will the consequences stop here, if it should be admitted that this argument is well founded; I am convinced the gentleman who urged it was not aware of them. Would he wish that all those whom the King can by law restrain from their attendance in this House for the space of 15 or 16 months, and who are thereby unable to discharge the duty which they owe to their constituents: would he wish, I say, that they should be all declared, *ipso facto*, incapable of sitting in parliament after that restraint shall be ended? Has he forgotten how many officers, both in the land and sea service, whilst they were members of this House, were absent for many years together, during the late war? Are there not many in the same situation, who are at this time actually employed upon military services in our garrisons abroad? Can they leave that duty without the interposition and consent of the crown; or, if they cannot, will it be contended, that they are disabled from ever returning amongst us, and that their seats are thereby vacated? This doctrine, if true, would prove that the gentlemen of the army and of the navy, who from the nature and condition of the respective services, are at all times liable to this objection, are for that reason not eligible into this House, and would be the strongest argument for an act of parliament declaring their incapacity. Many other cases might be put of temporary disabilities, even for a longer space of time, which have never been, and I believe never will be deemed proper grounds for an expulsion. I shall not however state them particularly, because those which I have already stated will surely be sufficient to convince the House, that this proposition is directly contrary to the practice, and that it has never been warranted in any one instance by the law and usage of parliament.

But it has been urged, whatever may be the case in point of form, with regard to the several articles contained in this question, whether taken together as an accumulated and complicated charge, or considered separately and distinctly, yet this House must necessarily be the judges, whether any member of their own is or is not a fit person to sit amongst them, and it has been argued, that if the last parliament thought him unfit, the present has certainly an equal right to adjudge that he is so. It has been asked, what merit has he had since that time to recommend him, and to induce the present parliament to think him a properer man to sit amongst them, than he was to sit among their predecessors? This would indeed be a conclusive argument, if we really had that discretionary power of excluding all those whom we think improper upon which it is founded. But we have no such general authority vested in us, nor is there a single precedent where we have pretended

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to exercise it. Whenever this House has expelled any member, it has invariably assigned some particular offence as the reason for such expulsion. By the fundamental principles of this constitution, the right of judging upon the general propriety or unfitness of their representatives is entrusted with the electors, and when chosen, this House can only exclude or expel them for some disability established by the law of the land, or for some specific offence alleged and proved. If it were otherwise, we should in fact elect ourselves, instead of being chosen by our respective constituents. If I had been one of the electors for the county of Middlesex, I should have shown by my vote the opinion which I entertained with regard to the conduct and character of Mr. Wilkes, and to the propriety of choosing him a knight of the shire for that county. I had not only a right, but it would have been my duty to have manifested that opinion. But when he is chosen and returned hither, my duty is widely different. We are now acting in our judicial capacity, and are therefore to found the judgment which we are to give, not upon our wishes and inclinations; not upon our private belief or arbitrary opinions, but upon specific facts alleged and proved according to the established rules and course of our proceedings. When we are to act as judges, we are not to assume the characters of legislators, any more than the Court of King's-bench, who were bound to reverse Mr. Wilkes's outlawry if they found any irregularity in it, though possibly they were convinced in their private opinions, that it would have been more beneficial to the state to have confirmed it. If we depart from this principle, and allow to ourselves a latitude of judging in questions of this nature; if we are to admit those whom we think most proper, and expel those whom we think most improper, to what lengths will not this doctrine carry us? There never was a parliament chosen, into which there were not some persons elected whom the greater part of the House thought unworthy of that honor. I speak of former parliaments, and it becomes us to be careful that posterity should not speak still worse of us. Let me suppose, for a moment, that this were true, to a certain degree, even in the present parliament, and that it were carried still farther from party prejudice, or from motives less defensible. This would indeed be the sure means of purging the House effectually from all ill humours within these walls, and of dispersing them at the same time through every corner of the kingdom. But if this summary mode of reasoning was really meant to be adopted, there was certainly no occasion for our sitting four or five days and nights together, to decide a question, which might as well have been determined in so many minutes. I cannot therefore bring myself to think, that any gentleman will avow the proposition to this extent. But perhaps some may wish to shelter themselves under the other part of the argument, and may contend, that a man who has been expelled by a former House of Commons cannot, at least in the judgment of those who concurred in that sentence, be deemed a proper person to sit in the present parliament, unless he has some pardon to plead, or some merit to cancel his former offences. They will find upon examination that this doctrine is almost as untenable as the other. Votes of censure, and even commitments by either House of parliament acting in that capacity only, determine, as it is well known, with the session. There are, indeed some instances, where in matters of contempt and refusal to submit to the orders of the House, the proceeding has been taken up again in a following session. But to transfer an expulsion from one parliament to another, and by this means to establish a perpetual incapacity in the party so expelled, which must be the consequence of it, as this objection will hold equally strong in any future parliament as in the present; this, I say, would be contrary to all precedent and example, and inconsistent with the spirit of the constitution. I could cite many precedents to prove the first part of my assertion, but one alone will be sufficient for my purpose, because that is so signal, and so memorable in all its circumstances, as to render any confirmation or enforcement of it quite unnecessary. In quoting this precedent I beg leave to say, that I do not intend to throw any imputation on any person whatsoever. I neither mean to acquit or condemn those who were parties to it, but merely to state the fact as it appears from your journals, and then to submit the result of it to the judgment of those who hear me. The case I allude to was that of Mr. Walpole, who was afterwards first minister to king George the 1st and king George the 2nd, for the term of twenty years and upwards. On the 17th of January, 1711-12, he was voted by the

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House of Commons guilty of a high breach of trust and notorious corruption, in receiving the sum of five hundred guineas, and taking a note for five hundred pounds more, on account of two contracts made by him when secretary at war, pursuant to a power granted by the lord treasurer, and for this offence he was committed prisoner to the Tower and expelled the House. He was immediately re-elected, but declared incapable of being chosen during that parliament. However on the dissolution of it a year and a half afterwards, he was again chosen into the new parliament, was admitted to take his seat without the least question or objection on account of his former expulsion, and continued a member of the House of Commons in every subsequent parliament till the year 1742, when he was created earl of Orford. It cannot be denied that the offence was in its nature infamous, and such a one as rendered the person guilty of it unfit to be trusted with the power to give, or to manage the public money. The same party that expelled him, whose enmity was aggravated by his great talents and knowledge of business, continued equally adverse to him, and equally prevalent in the new parliament; but however desirous they were to get rid of him, and however violent, upon many other occasions, yet in the very zenith of their power, they did not dare to set up this pretence, or to urge the expulsion of a former parliament, although not two years before, as a sufficient ground for re-expelling or declaring him incapable of sitting in a new parliament. If this could have been attempted, every circumstance concurred to make them wish it. The crime itself was breach of trust, and notorious corruption in a public officer relative to public money, an offence in the eye of parliament certainly not less infamous or less criminal than writing and publishing a seditious libel. Few if any were more obnoxious, or more formidable to them than the gentleman who had been the object of their justice or resentment. The heat of party rage had been pleaded in excuse, if not in justification of many extravagancies on both sides, but they thought this measure beyond the mark of a common violence, and therefore dared not to attempt it. I have said before, that it was not my intention to approve or to blame the censure then passed upon that extraordinary man. It was the subject of great discussion and altercation at the time. I do not wish to revive past heats. The present are more than sufficient, and all wise and good men should endeavour, by justice and moderation, to allay them. Let us therefore take it either way. Let us suppose, that he was guilty or innocent of the charge to the utmost extent, and then let us consider how the case will apply to that part of the question which is now before us. The crime, as it related to a fraud concerning the public revenue, was certainly under the immediate cognizance of this House, and was perhaps punishable in no other manner. They punished it as severely as they could, both by imprisonment and expulsion; the former of which ended in a few months, and the consequence of the latter in a year and a half. If he was guilty of a high breach of trust and notorious corruption, he was certainly very unfit to be invested with the most sacred trust in the kingdom, that of a member of the legislature. Had the question been asked upon that occasion likewise, what merit he had after his first expulsion to recommend him to the subsequent parliament? The answer must have been, that he had persisted in justifying what he had done; that he had appealed not only to his electors, but to the world at large in more than one printed pamphlet, accusing the House of Commons which had condemned him, of violence and injustice. With all these aggravations, and with every other inducement, what could have protected him, what could have prevented his re-expulsion, but the notoriety and the certainty that such a measure was not consistent with the known law and usage of parliament, even when exerted against a guilty and obnoxious man? This is the state of the argument upon that supposition; but if we take the other part of the alternative, and suppose that he was innocent of the charge, the proposition would be much stronger; we must then consider him in the light of a man expelled by party rage, or on worse motives, not for his crimes but for his merit; not that he was unfit, but that he was too well qualified for the trust reposed in him. What would have been the consequence if this doctrine of transferring the disability incurred by a former sentence to a subsequent parliament had been then established? The public and this House would have been deprived for ever of those services, which from his knowledge and talents they have a right to expect, and which they so much

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relied upon, particularly in the important business of the finances of this kingdom, and that gentleman and his family would have been precluded, irreparably precluded, by an unjust judgment, from those great emoluments and high honours which were conferred upon him by two successive kings, as the rewards of his administration. That loss however would have been the misfortune of individuals, but a much heavier, a much more extensive misfortune would have befallen the parliament and the constitution, if so dangerous a precedent had taken place. An easy and effectual plan would have been marked out to exclude from this House for ever, by an unjust vote once passed, any member of it who should be obnoxious to the rage of party, or to the wantonness of power. Let not your prejudices, let not your just resentments against the conduct and character of the man, who is now the object of our deliberation, prevail upon you to ground any part of your proceedings upon such destructive and fatal principles. Consider that precedents of this nature are generally begun in the first instance against the odious and the guilty, but when once established, are easily applied to and made use of against the meritorious and the innocent: that the most eminent and best deserving members of the state, under the colour of such an example, by one arbitrary and discretionary vote of one House of Parliament (the worst species of ostracism) may be excluded from the public councils, cut off and proscribed from the rights of every subject of the realm, not for a term of years alone, but for ever: that a claim of this nature would be to assume to the majority of this House alone, the powers of the whole legislature; for nothing short of their united voice, declared by an act of parliament, has hitherto pretended to exercise such a general discretion of punishing, contrary to the usual forms of law, and of enacting such a perpetual incapacity upon any individual. There are indeed some instances of the latter kind in our statute books, but even there they have been frequently animadverted upon, and heavily censured as acts of violence and injustice, and breaches of the constitution. Let us remember the well known observation of the learned and sensible author of L'Esprit des Loix, who states it as one of the excellencies of the English constitution, of which he was a professed admirer, that "the judicial power is separated from the legislative;" and tells us, "that there would be no liberty if they were blended together; that the power over the life and liberty of the citizens would then be arbitrary; for the judge would be the legislator." Shall we then, who are the immediate delegated guardians of that liberty and constitution; shall we set the wicked example, and attempt to violate them to gratify our passions or our prejudices? And for whom, and upon what occasion? Not to preserve the sacred person of the sovereign from assassination, or his kingdoms from invasion or rebellion; not to defeat the arbitrary designs of a desperate minister or a despotic court, but to inflict an additional punishment upon a libeller, who appears, by the question itself, to have been convicted of the greater part of his offences by due course of law, and to be in actual imprisonment at this moment, under a legal sentence pronounced by the supreme court of criminal justice in consequence of that conviction. Can we say, that there are not laws in being, to preserve the reverence due to the magistrate, and to protect the dignity of the crown from scandalous and seditious libels? Are they not sufficient, if temperately and firmly executed, to punish and to deter the most daring from the commission of those offences? If they are, for what purpose is this application? If they are not, can the proposition now made to you be deemed the proper or effectual method of enforcing them?

This brings me to the only part of the question which I have not yet touched upon; I mean the propriety and wisdom of this measure; supposing even that it were clearly warranted by the law of the land, by the law and usage of parliament, by the spirit of our constitution, and by the general principles of natural justice: the contrary of which, I think, I have manifestly shown in every one of those particulars: what then are the motives of propriety and wisdom by which we are called upon to come into this extraordinary resolution? I shall probably be told, that it is to check and to restrain the spirit of faction and disorder, to re-establish the credit and authority of government, and to vindicate the honour of this House, by expressing our abhorrence of these offences. No man has been more desirous to attain these necessary purposes than I have been, or will now set his foot farther for the accomplishment of them by all just

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and legal means, in every instance consistent with the public safety. I have not changed my sentiments relative to Mr. Wilkes, of whom I continue to think exactly in the same manner as I have long done; but, whatever my sentiments are, it cannot be denied, that he is now become an object of popular favour. Nor is that popular favour confined to this capital, or to its neighbourhood alone, but is extended to the distant parts of the kingdom. The temper of the people, you have been truly told, has on several occasions appeared to be disorderly and licentious, spurning at the laws, and at all lawful authority. The difficulties we have to struggle with, arising from the interior condition of this country, from the disobedience of our colonies, and from the state of our foreign affairs, are augmented to such a degree, as to form a very dangerous crisis. The respect and reverence due to the parliament, and the confidence reposed in this House, are visibly diminished. Under these circumstances does it not behove us to be doubly cautious, not to exceed the strictest bounds of law and of the constitution? Is it not more advisable, if the case can admit of a doubt, to conciliate the heated minds of men by temper and discretion, than to enflame them by adding fresh fuel to discontent? Our situation, I am sure, demands the firm support of an united people, and their affectionate reliance upon the wisdom of those who govern them. Till that can be restored, at least in some measure, we may look around for order and for obedience in vain. If his Majesty's servants can think that this proceeding is the likely means to restore it, let them, for the sake of this House, whose existence depends upon the good opinion of our constituents, as their happiness does upon us; let them for their own sakes, consult that best guide to all human wisdom, the experience of past times; and where can they consult it more properly than in the history of our own country? There they will find some of the ablest ministers and the most vigorous generals that any age could boast of, disgraced and overturned in the midst of their success and triumph by a popular clamour of the danger of the Church. The reverend incendiary Dr. Sacheverell was unwisely prosecuted by this House. He became by that means the favourite and the idol of the people throughout England, as much, nay more, than Mr. Wilkes is now. The queen herself was stopped and insulted in her chair, during the trial, with 'God save Dr. Sacheverell.' I heartily wish that no similar insult may have been offered to our present sovereign. The prosecution went on, and the ferment encreased. The event verified a famous expression in those days, "That the Whigs had wished to roast a parson, and that they had done it at so fierce a fire, that they had burnt themselves;" for the ministers were dismissed, and the parliament dissolved. The rev. doctor, the mob idol, when he ceased to be a martyr, soon sunk into his original insignificancy, from which that martyrdom alone had raised him. Mr. Wilkes, apprehensive of the same fate, and thoroughly sensible, that the continuance of his popularity will depend upon your conduct, uses every means in his power to provoke you to some instance of unusual severity. Suppose that you could otherwise have doubted of it, yet his behaviour here at your bar, when called upon to justify himself, is fully sufficient to prove the truth of what I have asserted. If he had intended to deprecate your resentment, and to stop your proceedings against him, he is not so void of parts and understanding, as to have told you in the words he used at the bar (when charged with writing the libel against lord Weymouth) "that he was only sorry he had not expressed himself upon that subject in stronger terms, and that he certainly would do so whenever a similar occasion should present itself;" nor would he have asked, "whether the precedents quoted by lord Mansfield were not all taken from the Star Chamber." If he had wished to prevent this expulsion, he would have employed other methods to accomplish his purpose; but his object is not to retain his seat in this House, but to stand forth to the deluded people as the victim of your resentment, of your violence and injustice. This is the advantage which he manifestly seeks to derive from you, and will you be weak enough to give it to him, and to fall into so obvious a snare? What benefit will you gain, or what will he lose, if this motion for his expulsion shall take effect? Whatever talents he has to captivate or to inflame the people without doors, he has none to render him formidable within these walls, or to combat the weighty and powerful arguments which ministers know how to employ. He has holden forth high sounding and magnificent promises of the signal services which he will perform to his

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country in parliament, and there are many who are ignorant and credulous enough to believe them. Whenever he comes here, I will venture to prophesy that they will be grievously disappointed. That disappointment will be followed by disgust and anger, at their having been so grossly deceived, and will probably turn the tide of popular prejudice. But as soon as he shall be excluded from this House, they will give credit to him for more than he has even promised. They will be persuaded, that every real and imaginary grievance would have been redressed by his patriotic care and influence. If in this situation, any untoward accident, any distress shall befall us, the ferment will be encreased by this circumstance, and the language of an uninformed and misled people will be, "Aye, if Master Wilkes had been in the House he would have prevented it; they knew that, and therefore would not suffer him to come amongst them." Such will be the reasoning, and such the consequences attending this measure; but they are not the only consequences which ought to be weighed and considered before you engage in it. Look a little forward to the course of your future proceedings, and see in what difficulties you will involve yourselves. In the present disposition of the county of Middlesex, you cannot entertain a doubt, but that Mr. Wilkes will be re-elected after his expulsion. You will then probably think yourselves under a necessity of expelling him again, and he will as certainly be again re-elected. What steps can the House then take to put an end to a disgraceful contest, in which their justice is arraigned, and their authority and dignity essentially compromised? You cannot, by the rules of the House, rescind the vote for excluding Mr. Wilkes, in the same session in which it has passed, and I know but two other methods which you can pursue. They have both been the subject of common conversation, and are both almost equally exceptionable. You may refuse to issue a new writ, and by that means deprive the freeholders of this county of the right of choosing any other representative, possibly for the whole term of the present parliament. There are some examples of this kind in the case of corrupt boroughs, where this House has suspended the issuing a new writ for the remainder of a session, as a punishment upon the voters for the most flagrant bribery; but I cannot believe, that it will be thought just or advisable to inflict the same punishment during the term of a whole parliament, instead of a single session, upon the electors of a great county, for no crime, except that of rechoosing a man whom this House had censured and expelled. If you do not adopt this proceeding, the other alternative will be to bring into this House, as the knight of the shire for Middlesex, a man chosen by a few voters only, in contradiction to the declared sense of a great majority of the freeholders on the face of the poll, upon a supposition, that all the votes of the latter are forfeited and thrown away on account of the expulsion of Mr. Wilkes. If such a proposition shall ever be brought before us, it will then be time enough to enter into a full discussion of it; at present I will only say, that I believe there is no example of such a proceeding, that if it shall appear to be new and unfounded in the law of the land, nay, if any reasonable doubt can be entertained of its legality, the attempt to forfeit the freeholders' votes in this manner will be highly alarming and dangerous. Are these, then, the proper expedients to check and to restrain the spirit of faction and of disorder, and to bring back the minds of men to a sense of their duty? Can we seriously think they will have that salutary effect? Surely it is a time to look forwards and to try other measures. A wise government knows how to enforce with temper, or to conciliate with dignity, but a weak one is odious in the former, and contemptible in the latter. How many arguments have we heard from the administration in the course of this session, for conciliating measures toward the subjects in the American colonies, upon questions where the legislative authority of Great Britain was immediately concerned? And is not the same temper, the same spirit of conciliation, at least equally necessary towards the subjects within this kingdom; or is this the only part of the King's dominions where it is not advisable to show it? Let not any gentleman think, that by conciliation I mean a blind and base compliance with popular opinions, contrary to our honor and justice; that would indeed be unworthy of us. I mean by conciliation, a cool and temperate conduct, unmixed with passion, or with prejudice. No man wishes more than I do to stop any excess on either side, or is more ready to resist any tumultuous violence founded upon unreasonable clamour. Such a clamour is no more than a sudden gust

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of wind which passes by and is forgotten; but when the public discontent is founded in truth and reason; when the sky lowers and hangs heavy all around us, a storm may then arise, which may tear up the constitution by the roots, and shake the palace of the King himself. As for me, I have given my opinion, and I have chosen to do it without concert or participation. I can assure the House, that some of my nearest friends did not know the part which I should take. I determined not to tell it, that I might keep myself unengaged and free to change it, if I thought proper, during the course of the debate. I do not mean by this to say, that I came into the House without having formed an opinion; on the contrary, I had weighed and considered it thoroughly, and my judgment upon it is the result of my most serious deliberation. I know not what others may think, or who will act with me upon this occasion. Those who were once my friends may have adopted other ideas and other principles, and even those who will still continue to be so, may possibly entertain different sentiments from mine upon this subject. That consideration must not prevent me from doing justice; but God forbid that they should not exercise the same liberty, and follow their opinions, as I do mine. They know that I have not asked one of them to attend during any part of this business, nor have I desired their concurrence. Many of them sit around me, and I appeal to them for the truth of what I have said. Thus far then I have discharged my duty, with no other view, but to do that which appears to me most conformable to the ends of justice and of the public welfare, most for the safety and honor of the King and the kingdom. Whilst my little endeavours can contribute but a mite to these great purposes, I will continue to exert them as freely as I have now done: but whenever the violence or corruption of the times, either within or without these walls, will not permit me to follow those dictates uncontrouled, I will leave this place, and retire from an assembly which can no longer be called a free parliament. Many extravagancies committed by Mr. Wilkes and his adherents have been urged, and even magnified, as if they could justify any extravagance of power to repress them. It has been asked, are these offences to pass unpunished, and are we not to vindicate our own credit, as well as that of the government, by expressing our abhorrence of them? Have I been an advocate for their passing unpunished? Have I stopped or neglected to enforce the censure of the law? Was he not prosecuted, tried and convicted, and when he left the kingdom to avoid his sentence, was he not outlawed? Let me go farther. Had Mr. Wilkes ventured to return home whilst I had the honour to be entrusted with the executive powers of the state, he should not have remained out of custody 24 hours, without submitting himself to the justice or the mercy of the King, whom he had so grievously offended. He knew it, and therefore did not return till he met with more encouragement. This surely was not the behaviour, nor is this the language of one of his partizans. Compare it with the conduct of those who now hold the chief office and authority of the government, and who call so loudly for vengeance and for punishment. Did they not give their support to him abroad after his conviction and outlawry, and keep up an intercourse and correspondence with him, even whilst they were the King's ministers? Was he not permitted to return to England, to appear publicly in this capital, for months together, and to walk daily under the windows of the palace unmolested, unconfined, and unpunished? They could not plead ignorance of the seditious libel against the King and both Houses of Parliament, nor of the three impious libels contained in the Essay upon Woman, for all of which he had been legally tried and convicted. Why then was he not called to his sentence, and the laws carried into execution, agreeable to the solemn assurances given by the King in answer to both Houses of Parliament, when they jointly addressed his Majesty to carry on this prosecution? What was become of the executive power, and how were those who were invested with it justified in suspending the usual course of the law, against the express direction of the King, enforced by the recommendation of both Houses of Parliament? What were the inducements at that time to such extraordinary favour and lenity, and what are now the motives for this extraordinary resentment and severity? The first circumstance which seems to have awakened their attention, was Mr. Wilkes offering himself a candidate for the city of London and the county of Middlesex, against the inclination of the ministry: but the proceedings

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against him were then carried on like the feeble efforts of men not half awake, or not half in earnest. Many days passed over before the officers of the crown would venture to execute the common process of the law for apprehending him; and to obviate this difficulty, they had at last recourse to the shameful expedient of stipulating with Mr. Wilkes himself, the terms upon which he would consent to be taken into custody. To follow that precedent you ought now at least to ask him, upon what terms he will consent to be expelled. Perhaps, if properly applied to, he may condescend to this request as graciously as he did to the former, and as voluntarily as he surrendered himself a prisoner, when he was taken with impunity out of the hands of the officers of justice by twenty persons, almost in sight of the court of King's-bench then sitting at Westminster Hall. Such was the firm and spirited conduct by which the supreme authority of the laws was supported and preserved. The outlawry was reversed for an error so trivial, that the court of King's-bench declared when they reversed it, that they were almost ashamed to mention it. When the judgment was given, the first law officer of the crown, in demanding it, did not think proper to enforce the penalty according to custom, and it was therefore milder than usual. In the first session of this parliament, Mr. Wilkes was returned a member of it, and suffered to continue without any notice taken of him! The beginning of the present session passed in the same manner. What is it then which has roused the languid spirit of administration, and called down the vengeance of the House of Commons of Great Britain? Not the seditious and dangerous libel of the North Briton, not the impious libels of the Essay upon Woman; not all the extravagancies which have been urged in this day's debate; all these were known before, and were not deemed sufficient for the exertion of the common censures of the law; but he has since presumed to write an insolent libel upon a secretary of state. This it seems is that capital and decisive offence, which is to raise our indignation to its highest pitch. The honour of our King, and the reverence due to our religion, were passed over in silence and forgotten. They are now to be thrown into the scale, to make up the weight, and to induce us to espouse the quarrel of a minister. To accomplish this important purpose, we are to violate not only the forms, but the essence of our constitution. The House of Commons is to blend the executive and judicial powers of the state with the legislative, to extend their jurisdiction, that they may take upon themselves the odium of trying and punishing in a summary manner, an offence which does not relate to themselves, but is under the immediate cognizance of the courts of law. In the exercise of it they are to form an accumulative and complicated charge, which no other court, nor even they themselves, have ever admitted in any other instance. They are to mingle up new crimes with old, and to try a man twice by the same judicature for the same offence. They are to transfer the censures of a former parliament, contrary to all precedent, and to make them the foundation of the proceedings of a subsequent one. They are to assume a power to determine upon the rights of the people, and of their representatives, by no other rule, but that of their own inclination or discretion; and lastly, they are to attempt to persuade mankind, that they do all these things to vindicate their own honour, to express their respect for their King, and their zeal for the sacred names of their God, and their religion. Thus are we to add hypocrisy to violence, and artifice to oppression, not remembering, that falshood and dissimulation are only the wrong sides of good sense and ability, which fools put on, and think they wear the robe of wisdom. If the House of Commons shall suffer themselves to be made the instruments, in such hands, to carry such a plan into execution, they will fall into the lowest state of humiliation and contempt. An individual indeed may exempt himself from the disgrace attending it, but the dishonour and odium of it will cleave to that assembly, which ought to be the constant object of public reverence and affection. I have done my duty in endeavouring to prevent it, and am therefore careless of the consequences of it to myself. I expect that what I have said will be misrepresented out of this House, perhaps in that place, where of all others a misrepresentation of what passes here will be most criminal. Those who have heard me must know, that I have neither invidiously aggravated, nor factiously extenuated Mr. Wilkes's offences. If he shall commit fresh crimes, they will call for fresh punishment, the law is open, that law which is the security of us all, to which Mr. Wilkes has been,

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and certainly will be amenable. Let him undergo the penalties of that law, whatever they may be, but not of an undefined, discretionary power, the extent of which no man knows, the extent of the mischiefs arising from it, to every thing which is dear to us, no man can tell.

I feel that I have troubled the House too long, but this is no common question, and I trust, that the same indulgence which has been my encouragement, will be my excuse and justification.

PROCEEDINGS IN THE COMMONS ON MR. WILKES'S RE-ELECTION FOR MIDDLESEX.*] February 10. Mr. Seymour moved, that the Resolution of the House of Friday last, relating to the Expulsion of John Wilkes, esq., then a member of this House, might be read. And the same being read accordingly; he also moved, "That, as the Resolution of this House by which John Wilkes, esq., then a member of this House, was expelled, contains a charge of accumulative offences, the said Resolution shall not be considered or used as a precedent for the future."

No arguments in favour of the motion were brought forward but such as were before made use of. But against the motion it was said, that it would be confessing the House to have done a very wrong

* "Mr. Wilkes's interests were warmly and eagerly espoused: at a meeting of the freeholders at Mile-end, his re-election was recommended. Alderman Sawbridge enforced it by observing, that if once the ministry should be permitted to say whom the freeholders should not choose, the next step would be to tell them whom they should choose; he was accordingly re-elected almost without opposition. On the day succeeding Mr. Wilkes's return, lord Strange moved, 'That having been expelled, he was incapable of serving in that parliament.' The question was carried in the affirmative by a large majority.

"In consequence of this measure the popularity of Mr. Wilkes increased, and he was considered the object of a vindictive prosecution. Another meeting at Mile-end resolved again to support him, and the most enthusiastic sentiments were expressed in his favour.

"All attempts to oppose the prevailing spirit were ineffectual. A meeting was called at the King's Arms tavern, in London, for the purpose of presenting a loyal address to the King; but the adherents of Wilkes were so numerous and formidable, that those who invited the meeting were obliged to leave the room to the other party, who by their speeches and resolutions totally perverted and turned to ridicule the original intent of the assembly. Those who convened it, however, prepared an address, which they left at a public office over the Royal Exchange for signatures. In their progress to present this paper at St. James's, they were assailed with violence and insult: a hearse preceded them, with paintings representing the death of Allen, and the murder at Brentford; the coaches were stopped, and those in them were beaten, pelted with mud, and many obliged either to desist from their intention, or proceed to St. James's by private ways. The hearse still preceding the few who remained, attempted to pass into the court-yard, but was resisted by the guard; the mob persevered in their outrages, even within the walls of the palace; two were secured by the intrepidity of lord Talbot, and fifteen by the military. The whole spectacle must have been truly mortifying and distressing to the King, as it evinced the dangers to which his subjects were exposed in presuming to display sentiments of loyalty and affection.

"A second election took place at Brentford, and Mr. Dingley, the principal promoter of the meeting of merchants at the King's Arms tavern, appeared for the purpose of opposing Mr. Wilkes, but he was so ill-treated by the mob, that by the advice of his friends he retired before the nomination, and the popular candidate was declared duly elected for want of opposition, although Mr. Dingley, in a letter to the sheriffs, protested against the proceedings of the day. The House of Commons, on the motion of the Chancellor of the Exchequer, again declared the election null and void.

"A new writ being issued, colonel Luttrell, son of lord Irnham, vacated his seat, and declared himself a candidate for Middlesex. This conduct was considered so rash and dangerous, that policies of assurance on his life were opened at Lloyd's Coffee-house. Mr. Wilkes's friends adopted their usual measure of calling a meeting at Mile-end, and entered into strenuous resolutions to support his cause. The House of Commons, apprehensive of riots, ordered the sheriffs to take the necessary measures for preserving the peace, by appointing an additional number of constables.

"The election was conducted with the utmost order, although a violent and outrageous mob occupied the roads to Brentford in every direction, and compelled all passengers to shout 'Wilkes and Liberty,' and to permit his badge, Number 45, to be chalked on their clothes, and carriages. The numbers on the poll producing a majority for Mr. Wilkes of eight hundred and forty-seven, the sheriff returned him duly elected. A motion, however, was made in the House, and after being debated with great vehemence, and no small ability, for two days, an alteration of the return was ordered by a majority of fifty-four. The freeholders of Middlesex presented a petition against this alteration, and were heard by counsel, but the House confirmed its previous resolution by a still greater majority." Adolphus.

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thing a day or two before; that when a majority of the House had agreed to a measure, it became the measure of the House, and so ought not to be altered that session.

The motion was negatived without a division.

February 17. It was ordered, "That the deputy clerk of the crown do attend this House immediately, with the return to the writ for electing a knight of the shire to serve in this present parliament for the county of Middlesex, in the room of John Wilkes, esq., expelled this House." And the deputy clerk of the crown attending, according to order; the said writ and return were read. After which, lord Strange moved, "That John Wilkes, esq. having been, in this session of parliament, expelled this House, was, and is, incapable of being elected a member to serve in this present parliament."

Mr. *James Townshend* gave the House an account of the Middlesex election. He observed there were above 2000 freeholders of Middlesex present; that they proceeded in a calm, determinate manner, had unanimously chosen Mr. Wilkes; and should the House expel him again, he believed their full determination was to petition the King to dissolve this parliament, and call another.

Lord *North* called him to order for this, observing he had never heard such unparliamentary language in that House. He exclaimed, Would the people petition to dissolve this parliament? If they did, he hoped no person would be found hardy enough to set his name to such a petition, a proceeding which would bring any minister's head to the block; and would call for all the weight of avenging power.—He was called to order by

Captain *Phipps*, who declared he never could have imagined any minister so ignorant of the laws, as not to have read the Bill of Rights, in which it is expressed, that the subject has an undoubted right to petition the throne.

Mr. *Townshend* then continued. He was surprised to hear such threats thrown out in that House, when liberty of speech was its greatest privilege. That, however, threats of that nature had no effect on him. He would tell that minister who used them, that he believed there were thousands ready to set their hands to such a petition; but if no other could be found, he himself should never refuse to appear in name or person in support of so constitutional a measure.

Sir *George Saville* said, that as a representative of a large county, it was his duty to assert the rights of his constituents; he apprehended, but desired to be instructed by the House, if it was not legal for the people to petition the throne; and if it was legal, whether that right of petitioning did not extend to ask any thing in the power of the King to grant. This he looked on as the people's right, and that no threats thrown out in that House could or ought to alter the law.

Lord *North* then explained away all or most of his meaning, saying, that all he meant was, most probably parliament would resent such an affront on those who should sign such a petition.

In favour of the motion it was observed, that when a member is once expelled, it is the undoubted law of parliament not to admit that person to sit again in the same

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"Well knowing the temper of his constituents, and of the nation in general, Wilkes considered his expulsion as the sure road to greater popularity and distinction, and immediately offered himself candidate for the vacated county. The favour of his supporters rose to an enthusiasm that overspread London, the county, and their environs; and the sympathetic spirit quickly diffused itself throughout England: under the influence of such sentiments, his re-election was unanimous; and the next day he was declared by the House incapable of being re-elected during the present parliament. On the 16th of March, Mr. Wilkes was chosen a third time; and the following day his election was again declared void. The Middlesex freeholders avowing their determination to choose him again, ministers set up another candidate, colonel Luttrell. The fourth election took place on the 13th of April: for Mr. Wilkes, there were 1,143 lawful voters; for his opponent, 296: Mr. Wilkes was accordingly returned. The next day, his name was erased from the writ by order of the House; and the day after, Henry Lawes Luttrell, esq. was, after a very violent debate, declared, by a majority of 221 to 139, duly elected. The passionate resentment of rulers against an individual, so clearly manifesting their want of magnanimity and true wisdom, produced a totally different effect from that which they expected or desired: their aversion procured to its object the warmest popularity. Ten days after the last vote of the House of Commons, he was chosen alderman of the city of London. Subscriptions were opened, to raise money both for the liquidation of his debts and his future subsistence. He was represented as a meritorious patriot, suffering oppression and tyranny for his virtues." Bisset.

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parliament; and the case was cited of Robert Walpole, who being re-elected for Lynn, the House of Commons determined that he could not be returned again that parliament; the Journals of the House being applied to, it appeared "That sir Robert Walpole, being expelled for bribery and corruption, is not capable of sitting in this parliament."

Mr. *Dowdeswell* then proposed an amendment to the motion, observing, that as the case of sir Robert Walpole was the only one that had ever happened, and much stress was laid on that precedent, we ought strictly to conform ourselves to it, and therefore proposed that the words of the vote by which Mr. Wilkes was expelled should be added to the motion. This would have entirely altered the case, as it would then have appeared that expulsion does not always infer the rendering a person incapable of being re-elected: but it passed without amendment—it would open such a door for expulsions that no man's seat was secure—there is one "worst" man in the House—turn him out. Is there not now a "worst" man left—turn him out too. In short, when will you stop? —You have turned one out for impiety and obscenity. Do half a dozen members of this House ever meet over a convivial bottle that their discourse is entirely free from obscenity—from impiety—or abusing government? Even in the cabinet, that pious, reforming society; was Mr. Wilkes there to be adjudged, and were the innocent man to throw the first stone, they would slink out one by one, and leave the culprit uncondemned.

The ministry used very few arguments, relying entirely on the ultimate ratio. And on the question being put it was carried against the amendment 228 to 102.

The main question of incapacity was then again discussed: the refusal of the amendment made many of those who would have voted for Mr. Wilkes's incapacity, now the question became general, vote against it; a member may be accused of writing a libel—the House expels him —but for being tried for that libel in the court of law he is found innocent—is that person never to be reinstated? How can you make that person amends for such expulsion? But, say the ministry, parliament will never expel a member but for just cause—when a ministry are to be judges, woe to their opposers.

Lord *Strange* said, if Mr. Wilkes put up again and again; if any person opposed him and had but 20 votes, he should be of opinion that person had carried his election. He was answered that now Mr. Wilkes's prophecy was near being accomplished: when the House had begun by voting who should not be members, the next step would be voting who should; and the right of the electors be entirely destroyed.

Then the main question being put, "That John Wilkes, esq., having been, in this session of parliament, expelled this House, was, and is, incapable of being elected a member to serve in this present parliament;" The House divided. Yeas 235; Noes 89. So it was resolved in the affirmative.

A motion being made, That the late election of a knight of the shire to serve in this present parliament for the county of Middlesex, is a void election, a member, in his place, informed the House, that he was present at the last election of a knight of the shire to serve in this present parliament for the said county; that there was no other candidate than the said Mr. Wilkes; that there was no poll demanded for any other person, nor any kind of opposition to the election of the said Mr. Wilkes.

Resolved, That the said election is a void election.

Ordered, "That Mr. Speaker do issue his warrant to the clerk of the crown, to make out a new writ for the electing of a knight of the shire to serve in this present parliament for the county of Middlesex, in the room of John Wilkes, esq., who is adjudged incapable of being elected a member to serve in this present parliament, and whose election for the said county has been declared void."

March 17. On the motion of lord North, it was ordered, "That the deputy clerk of the crown do attend this House immediately, with the return to the writ for electing a knight of the shire to serve in this present parliament for the county of Middlesex, in the room of John Wilkes, esq., adjudged incapable of being elected a member to serve in this present parliament, and whose election for the said county had been declared void." And the deputy clerk attending accordingly: the said writ and return were read. And it appearing by the return, that John Wilkes, esq., was elected, and returned, to serve as a knight of the shire to serve in this present parliament for the said county

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of Middlesex; the House was moved, that the entries in the votes of the House, upon the 17th of February, of the proceedings of the House, upon the return to the writ for electing a knight of the shire to serve in this present parliament for the county of Middlesex, in the room of John Wilkes, esq., expelled this House, might be read.

And the same being read accordingly; a motion was made, and the question being proposed, That the election and return of John Wilkes, esq., who hath been by this House adjudged incapable of being elected a member to serve in this present parliament, are null and void; and the previous question being put, That that question be now put; it was resolved in the affirmative.

Then the main question being put:

Resolved, That the election and return of John Wilkes, esq., who hath been by this House adjudged incapable of being elected a member to serve in this present parliament, are null and void.

And a motion being made, That Mr. Speaker do issue his warrant to the clerk of the crown, to make out a new writ for the electing of a knight of the shire to serve in this present parliament, for the county of Middlesex, in the room of John Wilkes, esq., who hath been by this House adjudged incapable of being elected a member to serve in this present parliament, and whose election and return have been declared null and void;

And the House being informed, that Mr. John Smith, under sheriff of the county of Middlesex, attended at the door, who could give the House some account of the proceedings at the last election of a knight of the shire to serve in this present parliament for the county of Middlesex; he was called in; and, at the bar, informed the House, that he was present at the last election of a knight of the shire to serve in this present parliament for the county of Middlesex: that no other candidate was proposed but John Wilkes, esq.; and that no elector gave or tendered his vote for any other person than the said Mr. Wilkes.

Ordered, "That Mr. Speaker do issue his warrant to the clerk of the crown, to make out a new writ for the electing of a knight of the shire to serve in this present parliament for the county of Middlesex, in the room of John Wilkes, esq., who hath been adjudged incapable of being elected a member to serve in this present parliament, and whose election and return have been declared null and void."

April 7. Colonel *Onslow* rose and observed, that the election at Brentford was coming on; that he had reason to apprehend riots; that several freeholders durst not go there to give their votes. He therefore moved, that the sheriffs should be ordered to attend the House on the 10th instant, to take their instructions, how to prevent the riots.

The ministry seconded him, observing that the House should always interfere, especially in keeping the peace at elections, and that they had done it in a very recent instance.

In answer it was observed, that the instance alluded to was when a riot had actually happened, the poll interrupted, many books lost, and the sheriffs had come to take counsel of the House how they should proceed; that to suppose a riot, would probably be a means of making one; that it was encroaching on the powers of government to suppose the civil power not able to maintain itself, and to call the legislative to assist the executive; that however as the motion had been made, the House could not well reject it, lest if a riot should happen, the consequences would be objected to be the fault of those who voted against it.

Mr. *Dowdeswell* observed that the motion was in itself ridiculous; for when the sheriffs came, what should the House say to them? He thought it would be much more advisable to make an order that the sheriffs should use their endeavours to keep the peace, by making an additional number of constables, &c. This idea was adopted. When the debate grew a little warm,

Mr. *Burke* attacked the ministry as authors of the whole system of riots, by the various encouragements they had given. In the sailors riots, they had employed a person at the head of that mob, one captain Fall, and given him a pension for what he had done in that mob: the appointing leaders of mobs, was a sure method to encourage mobs, by shewing a countenance to the principles on which they were raised: the pardoning the murderers in the Brentford riot, was a very proper extension of the royal prerogative: yet the method in which it was done, by giving reasons drawn from the partial opinions of interested surgeons, tending to destroy that confidence that every man

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ought to have in the trial of juries, and to bring into contempt the authority of the laws, was so weak a measure, that nothing but the most impotent, ignorant, dispirited administration could give life to. A time must come, though the ministers might put it off as long as they could, when an account must be given to the people of the steps by which so great innovations had been made in the constitution, and the longer that account was deferred, by so much more weighty the load would fall upon them. Now was a proper time to begin such enquiry, and those persons, be they who they might, on whom the cause of the riots could properly be laid, should, as he thought, be held out for the detestation of all honest men, and the punishment of the crown.

The ministry observed, that the gentleman might begin by enquiring, if the House thought it necessary, but nobody would imagine they would join issue to bring about such enquiry. They denied they knew any thing of the employing captain Fall, they did not conceive the pardon granted to the rioters, let it have been done in what manner it would, would have met with universal approbation. The present way was equal in justice to any other.

Colonel *Barré* observed that the ministry were like a polypus: cut it into pieces it was a polypus still; one part of the ministry employed its talents in raising mobs; another part in quelling them; and a third knew nothing at all of the matter: but he wondered they were so ignorant of the old parliamentary systems, not to know that when a minister was so publicly attacked, he never would leave the House until he had cleared himself from the accusation; and congratulated them on the new method found out of putting a negative on enquiries of that nature, by voting them not necessary.

It was then ordered, "That the sheriffs of Middlesex do apply to the magistrates of the said county, and acquaint them, that it is the order of this House, That the said magistrates do attend the next election of a knight of the shire for the said county, and do appoint a proper number of constables, and take every other means in their power, to preserve the peace and freedom of the said election."

April 14. Mr. Onslow made a motion for the return of a knight of the shire for Middlesex, to be immediately brought up. This was opposed, as unjust to colonel Luttrell, as proceeding on the return might hinder his petition for an undue election. The freeholders, too, might petition, but by proceeding in this summary way both were prevented; that an enquiry into the return, must either be followed by a motion to vote in colonel Luttrell, perhaps contrary to his inclination, as not choosing to stand on such narrow ground, to be the member for a county against the opinion of so large a majority of freeholders, when, perhaps, he might have other more manly ground to stand on; or else it must be followed by declaring it a void election, which might be exceedingly unjust, as there were so many other candidates. Others observed, that putting off the enquiry for fourteen days would give time for petitions against the election, and could be attended with no bad consequences, as Mr. Wilkes had been declared incapable by this parliament, which perhaps was a measure not absolutely just, but it was a law of parliament that no resolution could be rescinded in the same session; the next session might probably think differently from this, and once more establish the right of the people on its just basis—that this had unfortunately become a dispute between the parliament and the people, which, so far from ending our unfortunate disturbances, would in all probability encrease them to an height destructive of the constitution.

On the other hand it was urged, that the dignity of the House was concerned in putting an end immediately to this affair; that having voted Mr. Wilkes incapable of being returned, the people had no right to give their votes to him—the sheriffs were guilty of an audacious insult on the House of Commons, and liable to censure for having returned him; that the proceeding so immediately, was following the exact steps taken by the House in the former case where he had been declared incapable of being elected. The return was therefore called for, and Mr. Wilkes's election declared void.

Mr. Onslow then moved that the sheriffs of Middlesex should immediately attend the House with the poll; which was agreed to; but the ministry having neglected to give the sheriffs notice, they were so long in coming that the House got into confusion and riot for two hours, and then the night was so far advanced that it became improper to enter into any new debate that night: a motion was

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made by the ministry to adjourn to next day, which was Saturday.

The Opposition opposed Saturday as contrary to the custom of parliament, which never did any thing of consequence on that day; that Saturday was dedicated to other business, or pleasure; that it seemed as if the hurrying on this business was such a measure of government, that unusual means were taken to insure its success; that precipitation might sooner inflame than quiet the minds of the people. However the Ministry were so eager to finish the affair, that they voted for Saturday by a majority of 207 to 115.

April 15. Mr. Onslow made a motion, "That Henry Lawes Luttrell, esq. ought to have been returned a knight of the shire to serve in this present parliament for the county of Middlesex." He produced an intance of a person who was first in the poll, but being incapable of being chosen by a refusal to take the oaths, the House of Commons considered him as no candidate, and voted in the person who was next on the poll. This instance he brought to shew, that when votes were given to a person incapable of being chosen, those votes were looked upon, by the House of Commons, as thrown away, and the person next on the poll always declared duly elected by the House: he talked a good deal of his motives for making this motion, as founded on the principles of whiggism and the revolution; that the law of parliament was the law of the land; and consequently Mr. Wilkes having been declared incapable by the House of Commons, this was a legal disqualification, and of course the same case as that before cited: the House ought therefore to proceed in the same manner they had hitherto done in cases of the same nature, and vote Mr. Luttrell in.

The *Attorney General*, on the same side, observed, that he looked upon Mr. Wilkes's disqualification, notified as it was in the writ to the sheriffs and freeholders, as absolutely conclusive on them; and, therefore, the sheriffs were guilty of a great impropriety, to say no worse, in returning Mr. Wilkes: that in the late infamous riot at St. James's, there was regularity, order, and a well laid design, and he was sorry to inform the House, that he could get no legal proof to bring any person to justice; he thought to take the advice of the House how he should proceed therein. It was observed, too, that the House had, at different times, by three votes, disqualified several ranks of men, as aliens, denizens, sheriffs, minors, or clergymen: that if they could disqualify bodies of men, they could do the same to a single person.

Sir *Fletcher Norton* spoke on the same side. He observed, that he could not say that it was illegal for the freeholders to offer their votes for Mr. Wilkes. It was not illegal for the sheriff to take those votes for Mr. Wilkes. It was not illegal for the sheriffs to return Mr. Wilkes, when chosen; but he thought it highly indecent to fly thus in the face of a resolution of the House of Commons. The sheriffs might have made other returns; they might have returned all the candidates; or they might have made a special return; or they might have returned Mr. Luttrell. That the Commons, acting in a judicial capacity, he thought their resolutions equal to a law. He instanced some members who were disqualified by such resolutions at different times; as, Hall, for libelling; sir E. Sawyer, Mr. Montague, for bribery, &c. If you have a right to expel, it would be of no use, if not able to keep out the person so expelled.

Lord *North* spoke long, but chiefly to the passions; he described Mr. Wilkes, and his actions, in a lively manner; shewed the variety of troubles he had given the ministry—that unless by voting in Mr. Luttrell, an end was put to this debate, the whole kingdom would be in confusion. Though he owned he did not think that measure would put an end to the distractions. He spoke much more to the expediency than the legality of the measure proposed.

Mr. *Beckford* observed, on the other side, that all the precedents they had mentioned were of persons disqualified by act of parliament, consequently not applicable to the present case; Mr. Wilkes being disqualified only by a vote of one part of the legislature—that the House of Commons, alone, cannot make a law, binding any body but themselves—if they, by a vote, can disqualify one person, they may go on and disqualify whom they please; the consequence of which must be the getting into their own hands the power of the whole government. He concluded with a story in scripture, of Rehoboam, the son of Solomon, when the ten tribes of Israel revolted from his government; which he recommended to the ministry to apply.

Serjeant *Glynn* spoke very ably, and

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fairly observed, that the disqualification of Mr. Wilkes not being the law of the land, the freeholders of Middlesex were not obliged to take notice of it—that the disqualifications of bodies of men, as clergy, aliens, &c., were all either by express laws, or by implication from the common law, and that the votes of the House to that effect, were only declaratory, but not enacting—that undoubtedly the House had a jurisdiction over its own nembers, and were judges of the rights of electors, but such judgments must be according to law, a natural consequence of every court of judicature in this kingdom—that the right of the freeholders of Middlesex, as well as the right of every citizen or burgess, was an inherent right in them, not derived from the House of Commons, and therefore could not be taken from them by the House, except in cases, where offending against law, they had forfeited a right to such privileges.

Mr. *Burke* drew a very moving picture of the present state of the nation, and the terrible consequences to be dreaded from this measure; shewing that this was not, as had been represented, a dispute between the House and the freeholders of Middlesex, but between the House and all the voters in England, who would easily perceive their franchises invaded by this vote. He accused the ministry of the steps they had taken to sow discord between the King and the people. He said, that the Addresses were libels on the people, accusing them of crimes the ministry had forced them into—that the court of examining surgeons, was a rank libel on the trial by juries, and that the dignity of the ministry was destroyed by a dispute they were obliged to enter into with a poor surgeon, who had publicly threatened them with a prosecution for defaming him, and had never dared to defend themselves.

Mr. *Grenville* made, this day, one of the best speeches that had been made in the House of Commons for many years. He shewed, from history, that the vote of the House of Lords respecting one of their own members, had been considered by the King's-bench as null and void, because contrary to law; and that the Judges had not been punished by the Lords for so doing (this was in the case of lord Banbury, Holt chief justice). He then shewed, that in the case of Ashby and White, a vote of the House of Commons, contrary to law, had also been disregarded by the courts below; and, from the premises, concluded, that a vote of the House might and did bind the House, the session it was made in; but, out of the House, except in matters of privilege, had no effect on the people. If the ministry, he said, will take such headstrong measures, the vengeance of a deluded, injured people, must fall on them.

The motion was then carried by 197 against 143.

April 29. A Petition of the freeholders of the county of Middlesex, was presented to the House and read; setting forth, "That the petitioners being informed by the votes of the House, that the return for the said county hath been amended by rasing out the name of John Wilkes, esq., and inserting the name of Henry Lawes Luttrell, esq. instead thereof, and that leave was given to petition this House, touching the election of Henry Lawes Luttrell, esq.; and representing to the House, that the said Henry Lawes Luttrell had not the majority of legal votes at the said election, nor did the majority of the freeholders, when they voted for John Wilkes, esq., mean thereby to throw away their votes, or to wave their right of representation, nor would they by any means have chosen to be represented by the said Henry Lawes Luttrell, esq.; the petitioners therefore apprehend he cannot sit as the representative of the said county in parliament, without manifest infringement of the rights and privileges of the freeholders thereof: the petitioners therefore hope that the House will give leave that they may be heard by their counsel against the said election and return, and grant them such further relief as they shall think meet."

Ordered, That the matter of the said Petition, so far as the same relates to the election of Henry Lawes Luttrell, esq., be heard at the bar of this House, upon the 8th of May.

May 8. The House proceeded to the hearing of the matter of the Petition of the freeholders of the county of Middlesex.

And the counsel were called in, and the said Petition was read. And the order, made upon the 29th of April last, for hearing this day, at the bar of this House, the matter of the said Petition, so far as the same relates to the election of Henry Lawes Luttrell, esq., was also read.

And the standing order of the House,

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made the 16th of January, 1735, for restraining the counsel, at the bar of this House, or before the committee of privileges and elections, from offering evidence touching the legality of votes for members to serve in parliament, for any county, shire, city, borough, cinque port, or place, contrary to the last determination in the House of Commons, was also read.

And the counsel for the petitioners were heard; and having proposed to produce evidence, to shew that the numbers upon the poll were for Mr. Wilkes 1143, and for Mr. Luttrell 296; the same was admitted by the counsel for the sitting member.

Then the counsel for the sitting member were heard. And one of the counsel for the petitioners having been heard by way of reply; the counsel on both sides were directed to withdraw.

And a motion being made, "That Henry Lawes Luttrell, esq. is duly elected a knight of the shire to serve in this present parliament for the county of Middlesex;" the House divided: Yeas 221; Noes 152. So it was resolved in the affirmative.

The following very able summary of the Arguments made use of during the Debates on the Expulsion of Mr. Wilkes, is taken from the Annual Register for 1769:

It was said by those who opposed the expulsion of Mr. Wilkes, That the right of the electors to be represented by men of their own choice, was so essential for the preservation of all their other rights, that it ought to be considered as one of the most sacred parts of our constitution. That the House of Commons was not a self-constituted power, acting by an inherent right; but an elected body, restrained within the limits of a delegated authority; hence, as they were chosen, they could not dispute the right of their constituents, without sapping the foundation of their own existence, and infringing the fundamental principles of the constitution. That the law of the land had regulated the qualifications of members to serve in parliament, and that the freeholders of every county had an indisputable right to return whom they thought proper, provided he was not disqualified by any of those known laws. That new restraints are not arbitrarily to be imposed at pleasure by the judgment of any court. The legislature alone, which is the united power of the state, King, Lords, and Commons, can enact new restraints. Courts of judicature, and houses of parliament acting as courts of judicature, have only the power of declaring them: and in the use of that power are bound by the law as it stands at the time of making that declaration. When usage is collected from the ancient, uniform, and uninterrupted practice of parliament, we have the custom of parliament; and that custom is the law of parliament. These restraints, therefore, do not stand solely on the decision of the House, or the judgment of a court having competent jurisdiction in the case: they are much better founded in the previous usage, and the repeated acquiescence of those who are affected by them.

These incapacities are generally known; they are enumerated by law-writers of the first authority, who expressly declare all other persons eligible; these grave writers could not conceive, that a resolution of the House of Commons could from time to time either create or declare new disqualifications. They are founded in good sense; analogous to the like restraints adjudged in other cases by the courts of law; and confirmed by usage. They are not occasional but fixed: to rule and govern the question as it shall arise; not to start up on a sudden, and shift from side to side, as the caprice of the day or the fluctuation of party shall direct. Our constitution does not know any court so supreme as to be above reason, nor so absolute as to be able to make a custom under pretence of declaring it. The doctrine here asserted is such as would maintain the resolution of the House to be the law of the land by virtue of its own authority only, notwithstanding it may have usage, reason, and justice to contend against.

Instances were given of former resolutions, repeatedly taken upon much deliberation, in opposition to good sense and reason, common usage, and the rights of the electors. It was said that a most salutary doctrine was to be drawn from the glaring inconsistency of these resolutions: that where power goes beyond right, it finds no resting place; it never knows where to stop; but that every part of its career shews the danger of passing the bounds prescribed by law.

Besides the original disqualifications, founded on reason and the common law, and which are as ancient as the constitution, and from their nature must be as permanent, restraints have at different times been laid on by the statute law, and founded therefore in the consent of the

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whole community. These are arbitrary, take their rise from expediency, and are liable to be changed from time to time, by that authority which gave them being. If these restraints could have been established by any authority less than that of an act of parliament, it is not to be imagined that the House of Commons would have applied to the other branches of the legislature, in a matter which entirely concerned itself, and its constituents in their elections; though every application risked at least the mortification of a refusal; and that in our own times place-bills, and pension-bills, have been tendered at the bar of the House of Lords from year to year, though their only object was the independency of the House of Commons. That the great patriots who tendered those bills, never dreamed of the doctrine now set up, which tells us, that any restraint declared by the House, derives sufficient authority from that declaration, and is good in law.

That instances may be brought of experiments made, how far a vote of the House might be effectual, where the vote has been afterwards dropped, and the effect obtained by an act of parliament. That in particular, April 2, 1677, the House came to a resolution to prevent expences in elections after the teste of the writ, much in the same words as in the act afterwards passed, 7 Will. 3. This was made the standing order of the House at that time. It was renewed and confirmed as such, May 23, and October 21, 1678. But, to give it effect, it became necessary to pass an act of parliament for that purpose, six years after the Revolution.

That the House of Commons has the right, incidental to its judicature, of declaring what incapacities are legal. But it behoves the House to take care, that, instead of exercising the powers which it has, it assume not those which it has not; that from the temperate and judicious use of a legal power, vested in it for the benefit of the people, it swell not to the utmost pitch of extravagance and despotism, and make the law, under pretence of declaring it.

It was shewn that Mr. Wilkes was not, by any construction whatever, under any legal disability. That there are an infinite number of cases, in which the expediency of new powers in magistrates, courts of justice, and either House of Parliament, are apparent. But these powers cannot be assumed. They must be derived from a superior authority to an inferior; from the legislature to either House of Parliament. That there is a manifest difference between expulsion and disability; and that we must totally forget the common sense and meaning of words, if we can persuade ourselves that expulsion, which is the less degree of punishment, involves disability, which is the greater; and that the same difference between the sense of these words in common language, has in a parliamentary sense been constantly observed by the House of Commons.

The causes of expulsion were examined; it was said, that the charge against Mr. Wilkes, was so accumulated, that it was difficult to say precisely for what he was expelled; and that it was probable, if the question had been put separately for each offence contained in that charge, judgment of expulsion might not have passed for either. That the first offence contained in the general charge, was the publication of the North-Briton; which had been taken up by a former parliament, and for which he had been then punished by expulsion. That being punished by a former parliament, he could not be brought a second time to punishment in this parliament for the same offence, and that it would be an imputation on the justice of the House to suppose it. The second offence, was the publication of an impious and obscene libel, which had been taken up by the House of Lords in a former parliament, and for which he had been convicted and punished; but which was no offence against the House of Commons, nor in any respect within its criminal jurisdiction. The third and last offence, was the libel contained in the introductory preface to lord Weymouth's letter: however this may be understood as a libel, it was said not to be one of those offences, which are within the criminal jurisdiction of the House of Commons.

The precedents of disability founded upon former resolutions, were strictly examined; it was shewn that some of them overthrow themselves; that nobody can rely on the authority of proceedings in which there appears a manifest abuse, a daring illegality, and a slavish submission to power: such proceedings are vicious in the whole as well as in part; and ought never to be quoted in order to be followed. That others were established in the most violent times, when every day produced

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new invasions of the constitution. That in the year 1642, the precedents grow upon us so abundantly, as to lose all pretence to authority. That 49 members were expelled in two months only of that year, and most or all of them rendered incapable of sitting: that the majority then were clearing the House of their obnoxious brethren; and that to render their policy complete, and better secure to their order of incapacity the effect intended, new writs were seldom issued at the time of the expulsion; and frequently were not issued at all.

That order arose out of this confusion; and that from the Restoration to the present time, the sentence or punishment has never gone beyond expulsion, except in a few instances of members disabled from being elected at particular boroughs, on proof of a corrupt influence obtained in them.

That the power of expulsion is sufficiently great: it may be used to disgrace, to harass, to ruin an individual; but it carries with it no public danger. If the House abuse its power in the execution of it, the electors have their remedy, by re-electing the expelled member. But when incapacity of being re-elected is superadded to the expulsion, it is no longer the case of an individual; the rights of the electors are most materially affected. A stop is put to the freedom of their election. The number of persons open to their choice is diminished; and though that diminution is in one only, that single person may be their first favourite, and perhaps on that account rendered incapable. Nor does the evil stop here. The elected learn to taste the sweets of culling their company, not only by removing troublesome opponents, but barring their re-entry; and by putting a negative on the first interest in any place, make room for the second. That reason cries aloud against such a power in any set of men whatever. Happily she is opposed by no considerable list of precedents, except in 18 years of confusion from 1642 to 1660. That when we see this power so seldom exercised in old times, so grossly abused when it was, and so entirely abandoned since, we cannot but conclude that usage disclaims the power as much as reason protests against it, and that it does not exist in our constitution.

Such were a few of the many arguments urged with great force and energy on this side of the question. On the other side it was said, That the House of Commons had long been allowed a power of expelling their own members, and that unless the person expelled was to be excluded, the power of expulsion was wholly useless, and tended rather to expose the House of Commons to contempt, than to increase its dignity or importance. That the right claimed by the freeholders of Middlesex, was no other than the right of doing wrong, of sending a member to parliament, who was certainly ineligible in the eye of reason, however he might be deemed returnable in the judgment of the law. That if the House was obliged by the constitution to receive all persons who were returned by a majority of freeholders, and who were qualified according to law, the freeholders were equally bound not to return improper persons. That the law could not foresee all possible cases; but that if it could have been thought, that the freeholders would have made an injudicious, improper, or dangerous use, of this great privilege of election, the constitution would not have entrusted them with it. That our wise ancestors by no means intended, that infidels should be the guardians of our religion, beggars the protectors of our property, or convicts the framers of our laws.

That the House of Commons is the sole court of judicature in all cases of election. That this authority is derived from the first principles of our government; viz. the necessary independence of the three branches of the legislature. Did any other body of men possess this power, members might be obtruded upon the House, and their resolutions might be influenced under colour of determining elections. They have therefore an exclusive jurisdiction, and must be in all these cases the dernier resort of justice. That the House in the present case is the competent judge of disability, and that their decision on it is final; that if in this, or any other instance, its decisions were found to be attended with prejudice, the united branches of the legislature in their supreme and collective capacity, might interpose, and by passing a law regulate such decisions for the future; but that nothing less could restrict their authority.

It is asked, under what head of legal disability, is the present expulsion to be found? How are the electors to know it? The answer is easy: the records of parliament will inform them. How have they learnt, that judges of the superior courts

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cannot be chosen representatives of the people? How are aliens? How are clergymen disqualified? The House has adjudged them incapable as the several questions occurred.

It was said, that a very extraordinary principle had been adopted in the course of this debate, as if the Commons wanted to infringe upon the liberties of the people, without recollecting, that the Commons and the people are virtually the same, and that any endeavour to make them separate bodies, is no less dangerous than it is preposterous. If the Commons in their representative capacity have privileges which render them important, that importance increases the consequence of the people in their capacity of delegation; the people cannot be secure, unless the Commons are secure; they are inseparably connected both in interest and in freedom; and though upon some occasions the privilege of parliament may be a seeming oppression to individuals, the loss of it would be attended with very fatal effects to the whole community. That if the House of Commons had not in their collective capacity a title to peculiar privileges, no one member in his individual character could claim them with the smallest degree of propriety; yet individuals hourly claimed them with confidence, and they were admitted by the law of the land.

That nothing could be more misrepresented, than by saying that this measure was an injury to the freeholders of Middlesex. That on the contrary the injury was attempted on their side, who would obtrude an improper person on the House as a member, and obstinately persevere in this attempt, though all England was open to them for the choice of a proper person. That the supposed violation of right, in returning a person with a manifest inferiority of votes, will vanish, if the subject is properly considered, and a liberal construction put upon the law. That those who obstinately and wilfully persevere in voting for an unqualified person, are to be considered as not voting at all; their right of suffrage is acknowledged; but if the elector obstinately refuses to exercise this right according to law, he wantonly suspends his own right for the time, and his act being illegal is consequently void, and he is only in the situation of a man who had neglected to attend; he suffers no injury, he knows the consequence of what he does, and if he chuses to indulge his humour, it cannot even be counted a hardship. That an unqualified candidate can be no candidate; and that it is so evident that votes given to a person incapable by law of receiving them, must in their nature be null and void, that it is surprising how any body can dispute it.

These arguments were supported by a long train of precedents, shewing the usage of the House in a number of cases under the two heads of exclusion and expulsion. The former cases came generally within the line which has before been animadverted upon; the inferences drawn from the latter were greatly controverted, and in some instances, particularly the case of sir Robert Walpole, were shewn to overthrow the principle which they were brought to establish.

Proceedings in the Commons on the Nullum Tempus Bill.] February 24. On the motion of sir George Saville, the House resolved itself into a Committee on the "Bill to amend, and render more effectual an Act made in the 21st year of the reign of king James the first, intituled, An Act for the general quiet of the subjects, against all pretences of concealment whatsoever."

But before the House went into the committee, governor Pownall moved, that the committee might be empowered to receive a clause for extending the provisions and benefits of this Bill to America. But as the friends of the Bill were apprehensive that this foreign matter might endanger the Bill itself, he was desired to withdraw his motion, to which he consented. The House then went into the committee. The principles of this Bill, were to fix the term of sixty years, beyond which time the crown should not have it in its power to make any claim for concealment. A similar act to this was passed in James the first's time, but the principles of those times being of a more arbitrary cast than the present, the king told the parliament, that beggars must not be choosers; he therefore would only pass the Bill to have a retrospect for sixty years back—but no prospect to future times—this the parliament were forced to consent to—but the temper of the present times, more favourable to liberty, authorised the proposers of the present Bill to extend it to future times, enacting that the titles of the crown should be limited to a claim of sixty years to continue for ever. The principle of the Bill (namely, that the crown should be in some respect limited)

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was agreed to on all hands; but the court opposed the extension of it to future times. They chiefly argued that this being on the model of that of king James, should go no further than that did: that in future times when the evil had got to any height again, there was no fear parliament would again take it up and make a future remedy: that by remedying an evil already known, the effects of the act would be certain, but to extend it to futurity—who could say what would or would not be the consequences, It was feared this would open a door to more thefts from the crown, as when people knew where the line was to be drawn, they would always be endeavouring to take in some further estates, and if they were so lucky as to get over sixty years, their title was established, which might make frauds from the crown more frequent than ever: that the revenues arising from the crown lands being now a part of the national estate, were properly the objects of the care of parliament to prevent embezzlement.

It was answered, that one would imagine the ministry had changed sides with the opposition, as the first arguments they used would much more properly come from the other side of the House: that to parallel this act with that of James 1, they must also suppose the times parallel, which would be a satire on government: that to skin the sore, and not to eradicate the cause of it, would be acting like an unskilful quack: if a remedy for the evil part was a good measure, it must be a better measure to prevent such an evil for the future: that the dangers held out, in all probability were merely chimerical, as no such consequences had happened from the act of king James; no additional quantity of law suits had followed the act of limitation in private estates: next, as to the public revenues, the net sums arising from crown lands were very insignificant, and those merely from crown leases, which would not be in any wise affected by this Bill, as it only related to the crown claims which did not appear by surveys, as the lands leased by the crown did; that the temper of the times required some relaxation of those dormant claims from the crown; as, indeed, what better title could people have to lands than long possession — improvements — buildings — purchases from one to another, or descents from father to son?—that the crown revenues would more likely be advanced by the cultivation of those lands, than from their remaining in the state the crown held them; perhaps the best title the North Americans had to their lands, was cultivation and possession, and that the privy council, in all disputes from that country, had always determined that as their best claim: it were to be wished that all the crown lands were sold: but that even in that case, the present possessors would have the refusals, and not at too extravagant a price—a large sum, much larger than most people thought, might be raised from such sales: that, on the whole, a malignant spirit had now gone forth to the people against the parliament; that if the people found no remedy against the hand of power from parliament, it was much to be feared they might resign into the hands of the crown the privilege of electing their members, as an useless load on them, calculated rather to rivet their chains than prevent the additional load of them.

The Extension of the Act was carried by 205, opposition, against the court 124.

*Proceedings in the Commons respecting the Arrears of the Civil List.**] February

* "For the better understanding of this subject, it may be necessary to observe, that several funds had long since been appropriated for the civil list; an establishment, which includes all the civil offices and expences of government, and those, whether public or private, which are supposed necessary for the support and dignity of the court; except on extraordinary occasions, as the marriage of a princess, or the establishment of houshold for the younger branches of the family; when, in either case, the parliament usually allots a suitable portion for the one, and a sufficient revenue for the support of the other. These appropriated funds were intended to raise the annual sum of 800,000*l.* which was found, and supposed fully sufficient to answer the purposes intended; if the produce of the funds exceeded the proposed sum, the minister might have been accountable for the excess, as he would for any other part of the revenue. This, however, from the nature of the subject, was an enquiry never entered into: but if, on the other hand, there appeared to be a deficiency of the allotted sum, it was always, upon application, made good by parliament.

"Many debates, however arose, at different times, upon this article of deficiency, as it was sometimes thought that the ministers were too fond of establishing claims upon it; so that, in order to prevent such disputes for the future, his present Majesty, soon after his accession, agreed to accept of the certain annual sum of 800,000*l.* to be paid out of the aggregate fund, in lieu of the uncertain produce of those funds

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28. Lord North brought down the following Message from his Majesty:

"GEORGE *R.*

"His Majesty finds it necessary to acquaint the House of Commons, That the expences of his civil government having exceeded the revenue settled on his Majesty by parliament for defraying such expences, he has been obliged to incur a debt of more than 500,000*l.* an account of which he has ordered to be laid before this House; relying on the known zeal and affection of his faithful Commons, that they will make provision for enabling his Majesty to discharge the same. G. *R.*"

Mr. *Dowdeswell* moved for papers to be laid before the House, of the particulars for which these sums were risen to so high an amount. The court agreed to their being laid before parliament, but at the same time declared that on the morrow, the House should go into the matter of the Message, &c. though the papers could not come before the House for some time. The Opposition thought it strange to ask for money, to have that money given first, and then to enquire how it became necessary to give so much.

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which were before appropriated to the support of the civil list. This demand, when brought into the House of Commons, was likely to produce a hot contest in the present temper and strength of opposition. Immediately motions, infinitely diversified by all the manœuvres of parliamentary dexterity, were made for papers which might lead to a discovery of mismanagement or profusion, in the conduct of the revenue, and of the royal expences. A review was taken of the state of the civil list, and private revenues of the crown; comparisons were made with the income and the expences of former reigns. Government, they said, had, besides the certain 800,000*l.* very considerable revenues, arising from the principality of Wales, and the duchy of Cornwall, the produce of which, it being no part of the national supply, was never enquired into, and some new duties had, within a few years, been laid on, by virtue of the royal prerogative, in some of the new West India islands, which also produced some revenue, and which was not brought to account. In these circumstances, the civil list establishment was supposed to be upon a better footing than ever it had been before, and that what may be considered as the private finances, or treasury of the court, was also in good condition. These circumstances, they urged, rendered an enquiry necessary, to discover by what means a deficiency should have arisen, especially as it had not been observed, that any extraordinary expences had of late been entered into.

"It was said, that a noble provision had already been made, for the support of the civil establishment, and of the honour and dignity of government; that it was found fully sufficient to answer these purposes, during a long course of years, with magnificence, even when that establishment was clogged with many incumbrances, which do not at present affect it, and when from the general appearance, the expences, in all other respects, were to the full as great. That it was necessary, as well as equitable, to give the public the satisfaction of knowing, in what manner their money had been expended, before new burdens were laid upon them. That if debts were contracted at will, and money obtained at demand, without any examination, for their payment, it did not avail, what the ostensible forms of the demand or the grant might be, or in what terms they were conceived; the effects would at length be, that the forms may perhaps be continued, but that an arbitrary and unlimited revenue would be established at the will of the prince. That upon this system, the revenues of the crown would be such an inexhaustible resource to an evil minister, as would enable him to compass the most destructive measures; and that though the people were always ready to give their money with the greatest pleasure, to support the dignity, or even the magnificence of the crown, that it behoved them to know in what manner it was laid out, lest by getting into such hands, it might some time or other be employed to the destruction of their liberties, and the subversion of the constitution.

"On the other side it was said, that though it was generally right to observe the conduct of ministers with the closest circumspection, that in this reign, and upon the present occasion, it was less necessary. That it would be ungenerous, by any act, to shew the smallest suspicion of a prince, whose first care, upon his accession to the throne, was to strengthen the freedom of the subject, by establishing the independency of the judges: that no innovation injurious to the constitution, could be reasonably apprehended under such a prince. That his Majesty, who had in his private share of the captures taken during the late war, given up to the nation a sum exceeding 700,000*l.* was entitled to particular consideration in his immediate exigencies; and that the gratitude, not to say the justice of the kingdom, was called upon in the loudest manner, to comply readily and gracefully with his request.

"At the same time the ministers expressed the greatest readiness to lay the accounts and papers that were required before the House; but that the length of time which was requisite to prepare them, and the lateness of the session, made it necessary to be deferred to the next meeting, when they should be ready. It was then resolved, that the sum of 513,511*l.* should be granted to pay the arrears and debts due on the civil list, to the 5th of January 1769." Annual Register for 1769.

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Colonel *Barré* observed that he knew no country where they did so but in Ireland, where, when he was vice-treasurer with lord Clare, "We always," said he, "paid the money first, and then examined if we owed it." In 1721 a like message came from the king, with this difference, that the king promised in it to make enquiry how the exceedings came, and to remedy them for the future.

Lord *North* said he should make no such promise, as he was not sure that he could keep it.

The Opposition said this was fair in the noble lord to give us that prospect, as now we might be sure to have this demand again in a year or two.

Mr. *Dowdeswell* also moved for papers, deducing these debts with the precise time they were encreased; that, as we had had no less than five administrations since the King's accession, the nation might know to which of them they were indebted for such an increase of demands from the crown. Mr. Grenville and Mr. Dowdeswell both concurred in desiring those accounts, in order to exonerate themselves from this part of the odium; but the ministry opposed it, and gave as a reason, that no accusation being formed against any person, there was no sort of occasion to produce papers of this kind; that if on the general papers there were any such presumptions, those papers would then be very proper to be produced. The division was for the ministry 164, against 89.

March 1. Before the House resolved itself into a Committee, Mr. Dowdeswell moved, "That it be an instruction to the said Committee, that before they proceed to consider of his Majesty's Message, they do consider of the causes of the debts due on account of the Civil List."

The Ministry opposed this motion, observing that decency to the King required an immediate relief of his wants; that the people to whom the money was owing, were in distress for their money; and that on former occasions of the same kind, it had uniformly been the custom of the House to grant it directly. That the necessity of the crown, and the deplorable state of those to whom the money was owing, would not admit of any delays. The arguments of the Opposition were the same as the night before: however on a division the numbers were, for ministry 248, and 135 against them.

March 2. On the report of the Committee, Mr. Dowdeswell moved to have it re-committed. The arguments used on both sides were the same as before.

Sir *George Saville* observed that there were three ways of doing this business. The first, by taking the words of the ministry and voting the money without any enquiry; the second, by calling for the papers but voting the money first, and examining the accounts afterwards; the third by examining the papers, and finding the accounts just, and the demands well grounded, then to proceed to vote the money. He assured the House he was sent there as the steward and trustee of a very large and populous county, and that on his return they might probably ask him what he had done with their money? He would tell them he had joined in giving a large part of it to the King. Why, say they, what did he want it for? Did you see and examine his accounts? O yes (says he) to be sure, here are all the papers, and he really wanted it. Very well (say they) we would have you support the lustre of the crown, when the crown is not too extravagant. But suppose (says he) we had taken the first course, and I replied to them, I saw no accounts, but we had the words of the ministry, a very just, honest, œconomical set of people, that the King really wanted it, and that he had not foolishly dissipated his treasures, even in this case they would not have blamed me. But (says he) had they asked, whether I had demanded the accounts and had examined them, and I should answer, that I had indeed called for the accounts, but had voted the money first, and examined them afterwards, what would they have then said? Why, you great blockhead, was ever man so foolish? what pay the debts first and see the bills afterwards? did ever man in his senses do so before? why you are not fit to be sent to London at all; we must recommend you to the care of your fellow representative, to keep you out of danger of being picked up by money droppers, at prickers at the belt.

However there was no division, and the following Resolution was agreed to; "That the sum of 513,511*l.* be granted to his Majesty, to discharge the arrears and debts, due and owing upon the Civil List, on the 5th of Jan. 1769."

Motion respecting the late Riots in St. George's Fields.] March 8. Mr. Burke

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made a motion, which he had some time promised, "That a Committee be appointed to enquire into the conduct of the magistrates, and the employment of the military power, in the suppressing of the riots and tumults in St. George's Fields, on the 10th of May last; and into the orders and directions given relative thereto by any of his Majesty's secretaries of state, or by his Majesty's secretary at war, together with the course which has been held concerning the public prosecutions on that occasion." He observed at the close of his speech, that an enquiry would probably either be attended with an impeachment of the Secretary of State who wrote the Letter, or at least with a desire of the House to the King to remove him from his place; or else it would be attended with an examination how far the military should attend on the civil magistrate, and probably bring on an Act to regulate that matter.

Mr. *Grenville* said, that as to the relation betwixt the civil and military, it stood on as good ground now as it well could; the civil magistrate could call out the military to his assistance when he wanted it, but if he used them improperly it was at his own peril.

It passed in the negative, by 245 against 39.

Representation of the General Assembly of New York, denying the Right of Parliament to Tax them.] March 14. Mr. Trecothick offered to present a Representation of the general assembly of the colony of New York,

"Humbly shewing their high sense of the distinguished blessings under his Majesty's government, and our happy constitution: firm in these sentiments, the inhabitants of the colony acknowledge that august body, the High Court of Parliament, as the supreme legislature over all his Majesty's dominions: they conceive that it is not essential to preserve the just dependance of the colonies, that the parliament of Great Britain, in which they are not, nor can be equally or effectually represented, should be vested with the power of taxing his Majesty's subjects in America:

"That it is a fundamental principle in the English constitution, that no tax can be imposed, or any property be taken from the subject, without his consent, given by himself, or his representative in parliament.

"That they were early invested with the powers of legislation, in virtue of which, the right of imposing taxes has been invariably and exclusively exercised by their representatives, in general assembly convened: that with great anxiety they observe the acts of the late parliament, imposing duties on the colonies for the declared purpose of raising a revenue, which they lament as subversive of the natural and constitutional rights of the people they represent, whose property is by these acts granted without their consent.

"That the act of the same parliament, suspending the legislative power of this colony, until they shall have made the provision required, for quartering his Majesty's troops, is still more alarming, as destructive of the very end of representation.

"The subjects of this colony have always cheerfully complied with the requisitions of the crown; and they are therefore the more afflicted at the passing of those laws, which not only tend to the infringement of their natural rights as Englishmen, but seem to imply a distrust of their readiness to grant such assistance as the public exigence may require.

"Urged by these reasons; they presume, with the utmost deference to the wisdom of parliament, to lay before them the distresses of their constituents; and fully trusting, that the grievances of his Majesty's subjects in America, and the united voice of all the colonies, will prevail on his Majesty, and the parliament, to grant them such relief, as they shall think necessary, to maintain an equal participation of rights, among his faithful subjects, in every part of the British empire."

Lord *North* opposed its being brought up, seeing they denied the right of the parliament to tax them: if they petitioned to remove any grievance, it was another thing; but parliament having passed a law declaratory of its right to tax America, nothing should be received arraigning that right.

Colonel *Barré* drew a picture of the present state of America, not very comforting to an Englishman: their laws dissolved, the military in possession of their capital, not put under the civil magistrate, but rulers of the town themselves; some provinces (as Canada) governed by no laws at all but the articles of war. He had prophesied on passing the Stamp-Act, what would happen thereon, and feared he could now prophesy further troubles—that if the people were made desperate,

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finding no remedy from parliament, the whole continent would be in arms immediately, and perhaps those provinces lost to England for ever.

Mr. *Beckford* observed, that it was a strange piece of policy to expend 500,000*l.* a year, to assist the Custom-house officers in collecting 295*l.* which was the whole net produce of the taxes there; that the army extraordinaries for this year had amounted to 170,000*l.*

Mr. *Grenville* said, there was no medium to be observed; that we must either resolve strictly to execute the revenue laws in America, or else with a good grace give up our right entirely, and repeal the declaratory laws and revenue laws directly.

Mr. *Burke* observed, that there might be and was a proper medium; that we had an undoubted right to tax them, but that the expediency of putting that right in execution should be very evident before any thing of that sort passed.

However, on putting the question, it was carried without division, that the Representation should not be brought up.

Debate in the Commons on Quartering Troops in America.] March 15. The House resolved itself into a Committee on the Bill for Quartering Soldiers in America.

Mr. *Pownall*, who had before acquainted the House, that if the Bill was brought in to continue the act in the same form, he should propose some clauses as amendments to it, did now propose two clauses, which he prefaced by shewing and explaining the difficulties which had obstructed the execution of this Quartering Act in America, and rendered it impracticable. He said the first arose from the peculiar state of the inhabitants of that country. 2. From the various also and peculiar modes of acting, under which the execution of the laws, and the conduct of their domestic and foreign affairs are carried on. 3. From the various forms of their government. He said that there were not only all these perplexities in the nature of the business itself; but this state of it gave ground to those who, from indisposition to the service were inclined to oppose it; that these things together created dangerous snares for the officers, and that from hence were derived the various reasons why the troops were not quartered according to law. That the commander in chief in America had given something of this very account to government; that the governors had told the ministry that the act was impracticable, and the people of the colonies petitioned against it. He said, besides all this, there was another reason why this law would never be really and effectually complied with as it now stood—for ordering by act of parliament, the colonies to provide certain specified articles for the quarters and barracks, was considered as the imposing an internal tax, to which they never would submit willingly. He therefore proposed to leave this matter to the people themselves, to do it in their own way, and by their own modes of doing business, in such manner as might best accommodate the troops; trusting that if it was left to them they would do it by an act of their own, as they did during the war, in such way as would be effectual to every purpose that the service could require, or the government here could desire, and therefore proposed a clause to this purport; 'that this Quartering Act should not be of force in any province that had by an act (which received the approbation of the crown) made provision for this purpose.' His next proposal was to empower the commanding officer of any parties of soldiers, and the magistrates of the provinces, to quarter the troops in such manner as they should by mutual agreement conclude upon in all such cases where the act could not prescribe the particular manner, and where it would be best done by such mutual agreement. His first proposal was accepted with some amendments in the draughting it, as exceptions were taken to some expressions, which seemed to derogate from the authority and competency of parliament; the clause containing his second proposal was accepted without amendment, and the Committee agreed to report the Bill as amended.

The business being supposed to be over, the House became very thin; upon which lord Barrington got up and said, he had a clause to propose, which he was sure the House would agree to—he loved to do things effectually—he found as this law now stood, the troops were only to be first quartered in barracks, then in public houses, and lastly in empty buildings, &c. —he found the magistrates remiss in quartering them; he therefore should propose, that should they refuse or neglect to do so, the commanders should have orders to quarter them in private houses. Several

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members, particularly col. Barré, started up to answer him in the highest indignation, but lord Clare desired the Committee would not now enter upon it, but leave it till reported to the House, as it was of much consequence. Mr. Beckford however got up and said, he did not now intend to enter into it, but put in his claim as not having consented to giving free quarters to the troops at Boston.

Lord North's Speech on opening the Budget.] April 10. Lord *North* opened the Budget. He observed on the army, that it consisted of 10,000 men more than in the last peace, exclusive of the militia, which consequently must put this nation and its dependencies into an infinitely better state of defence than it was formerly, and thereby not subject us at the commencement of a new war, to those alarms and distresses which so powerfully operated on us in former times: that the navy was in a very good state of repair, the magazines full of materials for shipbuilding, and the number of sailors in pay, at least double those in the late peace. And under the last article he could congratulate the House on the increase of that body of men, which in the navy and merchants service was at least 16,000 more than during the last peace. Many of the miscellaneous articles were such as he hoped would soon cease, particularly the Foundling Hospital, which would not require above one grant of about 30,000*l.* more, to quit the public entirely of that enormous expence, a measure which had cost this nation, since parliament first interfered in the Foundling Hospital, near 600,000*l.* That as to the Exchequer Bills, it was a debt incurred and paid off every year, but he should advise that to diminish that sum, ought to be one of the first operations of government in future years; but he would not have it entirely abolished, but let it remain at about 600,000*l.* which would sufficiently answer the purposes of the nation, and remain a means of raising a large sum on the first day of any war. That the real amount of debts paid off this year was 913,000*l.* viz. the civil list, and navy debts, the former of which was a debt which every person must see the absolute necessity of discharging directly, and the second reduced the navy debt to as low a sum as it was possible to bring it, and was indeed the only out-standing 4 per cents. which parliament could meddle with, and at the same time gave room to supply the navy on a future war, by taking on credit what the wants of the state might make difficult to be got with money.

As to the Ways and Means, the land tax, malt tax, and India Company, being established sums, he need not observe on them, any more than on exchequer bills, which were only usual grants to replace those to be paid off: that the sinking fund, if estimated after the manner in which the produce of that fund had lately appeared, he did suppose would amount annually to at least 2,300,000*l.* per annum, but he should only anticipate it to Christmas next three quarters of a year, and should therefore take it only for 1,800,000*l.* a sum he had not the least fear of its producing: that a lottery being a tax on the willing only, though many might object to it, as an encouragement of gaming, yet he thought the public would be right to avail themselves of the folly of mankind, especially as it laid no burthen on the poor; that lotteries were of various natures, and the more they were varied, the more desirous the public were of running into them: he thought it good policy not to over-stretch them, as that would be destroying the hen for her eggs: he had only this year availed the public of 180,000*l.* and dividing 600,000*l.* amongst those who had the benefit tickets; that in all probability tickets would sell for 14 or 15*l.* a piece, especially when it was considered, the money for the prizes would be paid in full money, and not, as in former lotteries, in stock, which perhaps was at 10 or 11 per cent. discount. The money due from the ceded islands and French prizes was to a much greater amount than he had taken them for; it was not very certain they would be paid, but he hoped that at least government would get what he took them for—the American taxes when first laid were given for 150,000*l.* they produced nothing; they were then taken for 70,000*l.* and now he took them for only 30,000*l.*—that it did appear the amount of the last year was upwards of 20,000*l.* and as the troops kept every thing quiet there, it was to be hoped the taxes would increase to at least what he had taken them for. The small sums in the exchequer were a sort of scrapings from the monies issued in the war, and balances of different treasurers' accounts: he had brought to account all that he could now find, but from appearances he hoped the government would for four or five

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years ensuing, get perhaps 100,000*l.* a year from the same means.

Having thus gone through the Supplies and Ways and Means, he launched out into the present state of the nation, with regard to its situation as to futurity, and in respect to its foreign enemies. From the improving state of the sinking fund, he hoped the nation would be able to discharge at least a million and a half of debt every year: when the people in the Alley saw the ministry go on from year to year, without borrowing money, the little money they then would be enabled to pay with, would naturally turn their minds to the old stocks, and consequently would raise them to perhaps what they had been in the last peace, and restore public credit to its pristine state. He could also inform the House, that France was by no means in a condition to go to war with us, being left in a far more exhausted state than that kingdom had ever been. The revenues of France amounted on paper to about eleven millions sterling, half of which arose from their farmers-general; the other half, from the variety of officers employed in raising it, was by no means a clear income. It was impossible for any person to know the exact state of their debts bearing interest, but he had the greatest reason to believe, that now in time of peace they run out near a million sterling a year: this being the case, we had little reason to fear from so exhausted an enemy: he had the greatest reason to believe that our trade was on the encreasing hand, a consequence he drew not only from the encrease of sailors, but from the Custom-house debentures, which had encreased much since the last year: on the whole he comforted us that our situation was far from wearing that gloomy aspect which Englishmen were fond of: he hoped a few years of peace would restore to us that tranquillity and credit we had formerly, before our late expensive war, and frequent changes of administration had soured our minds, and reduced us to our present unhappy divisions.

Debate in the Commons on the Militia Bill.] April 12. The Report of the Militia Bill was brought up. A debate ensued whether it should be made perpetual, or only continued for a number of years. The chief reasons for the perpetuity, were to give strength and vigour to a measure which, in the last war, had so effectually intimidated our enemies from invading this kingdom; that it would be an encouragement to officers to enter into the militia, when they saw it fixed on a stable foundation: that on the contrary, to fix it only for a few years would cast such a damp on that service, that there would be no new officers, and many of the old ones would probably decline: that making it perpetual did by no means fix it so invariably, as that no future alteration should be made in it, and that the Pay Bill would still remain annual.

On the contrary it was urged, that to make it perpetual would be establishing a perpetual standing army, equally dangerous to the constitution with that of mercenaries: that the present plan had varied very essentially from the first establishment; officers less qualified, private men all substitutes: that it was far from being certain that the perpetuity would tempt any gentleman to enter into it, few desiring to engage for more than seven years: that it was very improbable the French would be more intimidated by the one or the other measure: and that by establishing it in perpetuity, it put it out of the power of the House of Commons ever to put an end to it, without consent of Lords and King, though in future times it might be a thorn in their sides.

Lord *J. Cavendish* spoke against the present militia, as composed of very improper men as officers; some regiments almost destitute of them; the men taken from home to a scene of debauchery; the subalterns, people of small fortune, spoiled by being made gentlemen; and several other real abuses.

Lord *Beauchamp*, on the contrary, declaimed in its defence.

Colonel *Barré* drew a picture of this nation, as defended by a militia, in such a masterly manner, that very few in the House but were fully convinced of the absolute necessity of a militia established on the best foundation, and supported by all the powers of the administration. On a division the friends to the perpetuity were 84. Against it, 79.

Speech of Governor Pownall on a Motion for the Repeal of the American Revenue Act.] The only other public business of this session was a motion made by Governor Pownall to repeal the Revenue Act in North America. The foundation of this motion was, that as some of the provinces had, by acts of their own assemblies, provided for their own esta-

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blishments, it was very hard that they should be again taxed for the same purposes by the English parliament; that, by repealing our acts, as to those provinces, and leaving an opening for the other provinces to pass acts for the same purposes, the whole American taxes might be repealed without any dishonour to parliament, and an opening made for an entire reconciliation with America. On this occasion,

Governor *Pownall* spoke as follows:

Sir; there is a general dissatisfaction and uneasiness, as well here as in America, at our falling back into that controversy and contest between the government and the colonies, which we were once so happily delivered from. All now are convinced, that there are no means of deciding the controversy; that there are no hopes of putting an end to the contest. Every event that arises, raises fresh difficulties; nothing but power can operate, and that can operate only to mischief. Power, thus used, will inflame and unite the colonies, as in one common cause, and every further exertion of that power will only press the people closer together, and render more intense and ardent that heat with which they are already inflamed.

There is, in the minds of men, an universal apprehension of the dangerous consequences of this state of things; there is a reluctance in all and a determination in most men against using power. All look for some mode of policy. Nay, I will venture further to say, that all seem to be agreed in what that policy ought to be, namely, that we take the first occasion which offers to get back again to that old safe ground of administration on which the American affairs were conducted until within a few years of experiment. People differ only as to the occasion and the time which may lead to this. They say we will take the proper occasion, when the proper time comes; when we see the proper ground, we will repeal these revenue laws, that we may get back again to the old ground.

But, Sir, times and occasions are not in our power, we cannot make them; when they arise, and are in event, all we have to do is to profit by them. If now, Sir, I can shew that this is the proper occasion, the very crisis in which government should interpose, to extricate itself with honour and safety, perhaps the only occasion in which it can so interpose, I shall not only vindicate myself for having made the motion at this time, but, if I can explain this truth, with that conviction with which it lies in my own breast, I shall be able to persuade the House to act also upon this occasion.

That this point of time, this crisis, may be seen as it stands formed in itself, in all its relations, and in all its consequences, it will be necessary to mark every line which leads to this point, this crisis.

And first, of the sovereignty and supremacy of parliaments. That is a line from which you ought never to deviate, which ought never to be out of sight. The parliament hath, and must have, from the nature and essence of the constitution, has had, and ever will have, a sovereign supreme power and jurisdiction over every part of the dominions of the state, to make laws in all cases whatsoever; this is a proposition which exists of absolute necessity —its truth is intuitive, and need not be demonstrated—and yet there may be times and occasions when this ought to be declared and held forth to the eyes and notice of the subject. Such was the time when the law declaring this power was made; it enacted nothing new; it declared no power that did not exist before; but it was like the hoisting your colours, the fixing your standard, to which all true patriots of this country might repair, under which they might arrange themselves, and to which the duty and obedience of all might be directed; and as you cannot, as you ought not, to give up the least, the most inconsiderable point of this right, of this power thus claimed, so ought you not, so can you not, lower these colours one inch, nor remove your standard for a moment.

Although the declaratory law is no part of the superstructure of the edifice of our constitution, yet, Sir, it is a visible sign and symbol of its sovereignty affixed to it; and if ever any one, now it is so fixed as a symbol on the edifice, should attempt to erase or to remove it, the whole edifice would fall to pieces.

This, Sir, is my idea of the sovereignty of parliament; this is my idea of the law which declares it; and if I could think myself capable of proposing any thing which might derogate from this, even in an *iota*, I should not only think myself unworthy of being a member of this House, but even a member of the community. When, therefore, people say that when the colonies recede, the proper occasion

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will arise wherein the government of Great Britain may concede; I say that occasion never can arise. Great Britain ought never to concede, if by those concessions are meant the giving up any of their rights or power which are necessary to the supremacy and sovereignty; nor is it what the colonies either wish, desire, or expect. They only wish to hold under this supremacy those rights which they have hitherto enjoyed, and to exercise them in the manner in which they have been hitherto permitted to use them.

Let us then see what is the case; you have not only declared this your power, but you have exerted this your power, by passing laws for raising a revenue for the support of civil government in the colonies, independent of the people of those colonies. This mode of providing for the support of civil government, although there can be no doubt in the right and power of the taxes by which the provision is intended to be made, yet it operates as a revocation of the rights and privileges of the legislatures of those colonies, as they have been permitted hitherto to enjoy them. It is a total change in the manner in which they have been hitherto permitted to exercise them; it is a moving of old boundaries; and you have done it by a law that is unjust, inefficient, and directly contrary to all the principles of commerce respecting your own interest.

The legislatures of the colonies have been hitherto permitted to hold that check and controul upon the government, under which the people whom they represent, live, that they have granted, appropriated, and held the disposal of the provision for its support. And although they complain of their being aggrieved in having this power taken from them, yet they have submitted to your authority, have manifested their obedience to your laws, and have paid your taxes. They have indeed petitioned against the exercise of this power of raising a revenue for this purpose, yet they obeyed before they complained; and if they were all now actually under military law and discipline, as some too much seem to be, they could not be charged with mutiny; having obeyed first before they complained.

Although they think themselves aggrieved—yet you command their duty in their act and deed, and even despotism itself cannot command the will.

They are at the lowest point of submission. If you endeavour to press them down but one hair's-breadth lower, like a spring they will fly all to pieces, and they will never be brought to the same point again.

They have humbled themselves in hopes, in confidence, that as you are stout, you will be merciful; but if you continue to exert your stoutness, you will find them as sturdy as they have been humble. If you will not accept their submission now they are at your feet, from the moment that you reject their submission, from that moment you will never be able to govern them. They will not oppose power to your power, they will not go into any act of sedition, they will not commit any acts of treason; but they will be impracticable.

There have been strange violences and outrages in America, the winds have beaten hard, the storm has been high.—The state, like a ship, hath been driven into extreme danger, amidst shoals and breakers—but the people are now in a state of submission—they are in suspence—all is peace—there is a lull at this moment; now then is the moment to refit your rigging, to work out the vessel from amidst these breakers, and to get her under way, in her old safe course, and you may bring her to the harbour that you wish.

Thus of their obedience, that it is now at this crisis, at the very lowest point that it ever will be; so, on the other hand, of your power, it is now at its height—You have, in the plenitude of your power, not only rejected the petitions of the colonies, but you have renounced the principles which those petitions contain, and yet they continue to obey to this hour—At this hour, therefore, there remains nothing that opposes your authority, nothing that militates against the principles of your sovereignty, nothing that can be supposed to influence or limit your power. Every movement must, now at this hour, derive its spring from the vigour of your own principles alone, the principles of your own wisdom, justice and policy can alone actuate you. The people of the colonies are waiting for the issue of this event—and as it is now in your power, and rests wholly upon your own discretion, it is now perhaps alone (commanding the point of your own honor) that you will be able to choose your own ground with safety.

Matters are now brought to a crisis at which they never will be again; if this occasion is now lost, it is lost for ever. If this session elapses with parliament's doing nothing, American affairs will perhaps be

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impracticable for ever after—You may exert power over, but you can never govern an unwilling people; they will be able to obstruct and pervert every effort of your policy: they will render ineffectual every exertion of your government; and will shut up every source, one after another, by which you should derive any benefit or advantage from them.—

1. As your authority and power has its full effect at this time;

2. As the people have submitted—are paying the taxes—and are at peace;

3. As you have rejected their applications, and have renounced their principles;

4. As nothing remains to oppose, or to obstruct the vigour of your own principles;

5. As you are, at this hour, at perfect liberty, and masters of your own motives—This is the proper time, the proper occasion, that you should take to recur only to yourselves, to your own motives, to the principles of commerce, policy, and justice.

As there is nothing from without that can obstruct your own motions, enquire what there is within yourselves that does obstruct the way, and prevents your getting back again to that old ground, on which you have, for so many years, safely and happily stood; examine and you will find that nothing but this unjust, inefficient, and injudicious law (made in the seventh year of his present Majesty) does prevent you.

Examine, first, what are the maxims and principles of the policy of commerce, with which government hath acted towards the colonies for a century past; they can no where better be described than they are in the act for encouraging trade, passed in the fifteenth year of the reign of Charles 2. That Act points out that the true spirit of law for regulating trade between this country and its colonies is,

1. To maintain a greater correspondence and kindness between them and us;

2. To keep them thereby in a firmer dependance;

3. To secure the vent of English goods and manufactures in the colonies;

4. To make this kingdom a staple for the produce of the colonies, and a market for those supplies which are necessary for them;

5. To render them more advantageous and beneficial to this country, and to keep them and their trade to ourselves alone;

Now, Sir, will any one say that this Revenue Act, of his present Majesty's reign, hath a tendency to maintain a greater kindness and correspondence between this kingdom and the colonies—has it not a direct contrary effect?—I speak only to fact.

Will any one say that the spirit of this Act, and the measures taken to carry it into execution, have had a tendency to keep the colonies in a firmer dependency upon us—have they not, on the contrary, shaken that dependency to the very root?

Will any one say that it hath a tendency to promote the vent of British goods and maufactures in the colonies—on the contrary, have not the people in every colony upon the continent come to one general agreement, not to import any British goods upon which any of these duties are laid, in addition to that arbitrary price which we, by our monopoly, are enabled to demand?

Will any one say that duties, thus laid on your own merchandize and manufactures, exported to America, do not operate to a certain degree, as a prohibition against your own produce and labour, and as a premium and encouragement to that of the colonies—has it not had the effect?

Have these measures a tendency to render this country a staple for the produce of America, and a market for the supplies necessary to it—on the contrary, has it not opened the way to a contraband supply from foreign markets?

Will any one say, that, under all these circumstances, the colonies are rendered more beneficial and advantageous to us, or that we are not taking the direct way to break the inter-communion of trade and commerce between us, instead of securing the monopoly of it?

Let us therefore view in this light, and by these principles of policy, commerce, and justice, the American Revenue Act, of the seventh year of the reign of his present Majesty, which hath occasioned all this uneasiness—which obstructs the way to your getting back again to your old ground—which is unjust in its purport, inefficient as a measure of finance, and operates in direct opposition to every principle of the laws of commerce, as they stand related to the mother country.

First, As it proposes to raise a revenue for the support of government in the colonies, independent of the people, it is contrary to, and is a revocation of that system of rights and privileges, on which

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the government of the colonies hath been established. That establishment hath from the beginning given to them the same check and controul upon the servants of the public, by their legislatures having the granting and disposal of the provision for the support of government, as parliament hath here—and as the subject in both cases hath been always hitherto esteemed to have the same rights and privileges, the plan of political liberty hath been always the same in both cases, although the scale is less; but this measure brought forward by this law, hath a tendency to revoke and change the whole of that system; and as it is unnecessary it is unjust, and a grievance in every degree.

Second, It is unjust as demanding such a revenue from all the colonies indiscriminately, when several provinces have already made ample and adequate provision for this very purpose, conformable to the royal instructions, by acts which have received the royal confirmation. The instruction which I believe hath been constantly given to every governor of every province, says, "That the governor must require the legislature to make provision, by a permanent law, without limitation of time, for the support of civil government in that province, of the administration of justice, for making and repairing fortifications, and other defence for the protection of his Majesty's dominions."

Mark, first, that every purport of this Revenue Act, of the seventh of his present Majesty, is contained in this instruction; and permit me, Sir, to lay before the House what provision the revenue law of Barbadoes has done in this very point—what Jamaica has done—what the colony of Virginia has done, in exact conformity to this instruction. Although I will not trouble the House with reading these laws, I must beg leave to refer to them.

Barbadoes, by an impost of 4½ per cent. upon all their produce exported, and by other duties upon certain articles imported, hath granted to his Majesty, and his heirs for ever, a provision for the support of civil government, and the protection of the island, by a revenue greatly beyond what those services have hitherto required, and shamefully beyond what the government of this country hath applied to those purposes.

The island of Jamaica, by certain duties granted to his Majesty, hath made provision for the same purposes, in exact conformity to the like instruction or requisition, by a permanent revenue, which they hope may be without limitation of time, as it is to remain as long as the succession of the crown shall remain in his Majesty's royal House. His Majesty's colony of Virginia hath likewise granted to his Majesty, and his heirs for ever, certain duties of impost and tonnage, for this end, and in the very manner directed and required by the like royal instruction.

I could also here mention the grants of revenue which the Leeward Islands have made to the crown for the same purposes; but as the assembly of these islands, with too unwary a confidence, neglected to appropriate the monies arising from the revenue which they granted—the crown took it as rather given to the king in his seignoral capacity, than to the supreme magistrate, for the purposes of the state.

But parliament in the beginning of the reign of queen Anne, being apprized of this unjust and shameful perversion of this revenue, came to a resolution to address her majesty that for the future those duties of 4½ per cent. collected in Barbadoes and the Leeward Islands, might be applied for the repairing and erecting such fortifications, and other public uses, for the safety of the said islands, as her majesty shall direct, and that an annual account how the said duties shall have been expended, may be laid before the House of Commons. Nothing hath ever been done in this matter, although it so regards the honour of the crown, in doing justice to the people; and the same perversion continues to this day. And yet this last revenue-law demands from, and collects upon these people (after having thus perverted what they have already granted more than sufficient) a duplicate revenue for the same purposes already provided for.

It is not only unjust to charge these provinces with taxes for the purpose of raising a revenue, who have already, at the requisition of the crown, taxed themselves, and have already raised a revenue for the same end—but there is an additional injustice in charging the obedient provinces with this burthen, for the purpose of supplying the defect in those provinces which have not been obedient to that end.

In the next place, when we consider this law as a measure of finance, the fact upon your table proclaims its insufficiency, for the sum returned, as its whole nett produce, amounts but to 295*l.* and a few shillings.

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Compare this revenue, as arising in the respective provinces, with the revenue raised for the same purposes in those very provinces, previous to this inefficient and injudicious act.

The revenue of Jamaica was, in the year 1728, granted for 8,371*l.* and is now greatly more than double that sum per annum. The amount raised by this late act is but 323*l.*

The revenue raised in Virginia, which ought, in like manner as in Jamaica, to be applied to the support of civil government, and to the protection of his Majesty's dominions there, is above 27,500*l.* per annum; whereas the revenue intended by this act to create a more certain provision, has amounted to but 360*l.* What the amount of the 4½ per cent. duties are, I cannot pretend to mark with any precision, as no account of them has ever been laid before the public—but it is notorious what large grants, by annuities and otherways, are paid out of them.

Now, Sir, view this system of finance in the light either of justice or policy, and the impropriety of this act must be apparent in every degree of conviction.

It remains that I observe that this law contradicts every maxim and principle of the policy of commerce, in every line of direction by which it should be conducted.

I have shewn that it hath a direct tendency to break off that correspondence that hath hitherto been nourished, and hath subsisted between this country and its colonies:

That it hath a direct tendency to obstruct the vent of British manufactures and goods in the colonies:

That it operates as a bounty to American manufactures:

That it encourages the contraband trade and supply from foreign markets:

That it takes the ground from under that very policy which should establish the British market for, and make this kingdom a staple to the trade of that country:

That it renders the colonies every day less beneficial and advantageous to us, and that it will in the end break off their dependence upon us.

I shall therefore only mark the instances in those matters, which this act particularly respects.

It lays a duty upon painters' colours. Can any one imagine that the people of America are under any necessity of importing this article into that country? Can any one imagine that there is no red or yellow ocre on that great continent? Can any one suppose that a country which abounds with mines of lead, iron and copper, hath not every colour that the art of painting hath produced and used? But if they had but one, and that the poorest colour that ever was used, we know how far the spirit of an agitated people will go, as there was a time when we heard of nothing but Prussian cakes and Prussian ale; so if a fancy was taken up at once to call this poor colour, the colour of liberty, every house, carriage and ship would be painted with it.

This act lays a strange, unintelligible duty upon paper. There are large manufactures of paper in that country; the only difficulty they labour under is that of collecting a sufficient quantity of linen rags; but if they were once to consider that the substance of paper is nothing but the macerated remains of certain plants, they would find a way of obtaining that substance, without its having gone through the intermediate process of having been made into linen; and then there would be an end to all difficulty as to this article of manufacture; but in the mean while, this act has had a direct tendency to lead them to look for a supply either directly from Holland, or immediately from the Dutch islands in the West Indies.

In like manner I could shew, from an authority which, if I was to mention, would have great weight of evidence in this House as to these matters, that this law hath not had the effect of preventing the importation of Dutch teas into that country, but that there never was imported more than in the last year, either directly from Holland, or by way of the Dutch West India islands; and no wonder when our laws clog our own trade, with a discouragement of 25 per cent.

This Act lays a duty upon glass, which has a direct tendency to promote the manufacture of that article in those countries. There are already several considerable glass houses there, and I have been told that the great one in Pennsylvania, exports considerable quantities for the support of New York and Boston.

It is on these considerations, I shall end what I have to say, in moving the House to go into a Committee, to consider this act, passed in the 7th year of his present Majesty, and the ill effects of it. But as it is, I understand, customary to open now in the House what I shall propose to that Committee, if the House should approve

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of going into such, the following are what I intend to offer.

That it is the opinion of this Committee, that the imposition of certain duties to be raised and levied by an act, made in the 7th year of the reign of his present Majesty, entitled, An Act, &c. on certain goods and manufactures therein mentioned, hath a tendency to obstruct the vent of British manufactures and merchandize in the said colonies and plantations; and to render the colonies and plantations less beneficial and advantageous to his Majesty's dominions of Great Britain.

That it is the opinion of this Committee, that the said Act hath not answered the purport and intent thereof, of raising a revenue in his Majesty's dominions in America, for making a more certain and adequate provision for defraying the charge of the administration of justice, and the support of civil government in such provinces where it may be found necessary, and towards further defraying the expences of defending, protecting, and securing the said dominions.

That it is the opinion of this Committee, that the repeal of the said duties is, upon commercial considerations alone, highly proper and necessary.

That the House be moved to bring in a Bill for repealing so much of an Act, made in the 7th year of the reign of his present Majesty, entitled, An Act, &c. as imposes certain duties on goods therein mentioned, imported into the British colonies and plantations in America.

In hopes that the Committee will come to these opinions, "I do move that the House do resolve itself, on Monday next, into a Committee of the whole House, to consider an Act passed in the 7th year of his present Majesty's reign, entitled, An Act," &c.

Every person seemed to agree with the motion; but the ministry complaining that the late time of the sessions would not allow a matter of so much consequence to be properly agitated, as they were not prepared for it, a motion was therefore made to put it off till next session.

SUPPLIES *granted for the Year* 1769.] The following are the Resolutions of the Committee of Supply during this Session:

	£.	s.	d.
NOVEMBER 21, 1768.			
That 16,000 men be employed for the sea-service for 1769, including 4,287 marines.			
That a sum not exceeding 4*l.* per man per month be allowed for maintaining them, including ordnance for sea-service	832,000	0	0
NOVEMBER 28.			
That a number of land forces, including 2,349 invalids, amounting to 17,142 effective men, commission and non-commission officers included, be employed for 1769.			
For defraying the charge of the said number of land forces for 1769	602,673	15	7
For maintaining his Majesty's forces and garrisons in the Plantations and Africa, including those in garrison at Minorca and Gibraltar, and for provisions for the forces in North America, Nova Scotia, Newfoundland, Gibraltar, the ceded islands, and Africa, for 1769	397,835	18	7½
For defraying the charge of the difference of pay between the British and Irish establishment, of five regiments and four companies of foot, serving in the Isle of Man, at Gibraltar, Minorca, and the ceded islands, for 1769	4,661	12	7
For the pay of the general and staff officers in Great Britain for 1769	12,203	11	6½
For defraying the charge of full pay for 365 days, for 1769, to officers reduced, with the 10th company of several battalions, reduced from ten to nine companies, and who remained on half pay at the 24th Dec. 1765 ..	4,768	5	0
	1,022,138	10	3½
DECEMBER 5.			
For the ordinary of the navy, including half pay to sea and marine officers, for 1769	410,255	8	1
Towards the buildings, rebuildings, and repairs of ships of war, in his Majesty's yards, and other extra works, over and above what are proposed to be done upon the heads of wear and tear and ordinary, for 1769	282,413	0	0
For the charge of the office of ordnance for land service, for 1769	177,947	18	0
For defraying the expence of services performed by the office of ordnance, for land service, and not provided for by parliament, in 1768	43,812	19	0
	914,429	5	1

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FEBRUARY 16, 1769.

For paying the pensions to the widows of such reduced officers of his Majesty's land forces and marines, as died upon the establishment of half pay in Great Britain, and were married to them before the 25th Dec. 1716, for the year 1769	1,480	0	0
For the reduced officers of his Majesty's land forces and marines, for 1769	127,020	0	0
For defraying the charge for allowances to the several officers and private gentlemen of the two troops of horse guards reduced, and to the superannuated gentlemen of the four troops of horse guards, for 1769	1,351	0	0
Towards defraying the charge of out pensioners of Chelsea hospital, for 1769	107,394	15	10
	237,225	15	10

FEBRUARY 21.

Upon account, for maintaining and supporting the civil establishment of Nova Scotia for 1769	4,375	17	11
Upon account, for defraying the charges of the civil establishment of Georgia, and the incidental expences attending the same, from the 24th June 1768, to 24th June 1769	3,086	0	0
Upon account, for defraying the charges of the civil establishment of East Florida, and the incidental expences attending the same, from 24th June 1768, to 24th June 1769	4,750	0	0
Upon account, for defraying the charges of the civil establishment of West Florida, and the incidental expences attending the same, from 24th June 1768, to 24th June 1769	4,800	0	0
Upon account, for defraying the expences of general surveys of his Majesty's dominions in North America for 1769	1,785	4	0
Upon account, for defraying the civil establishment of Senegambia, for 1769	5,550	0	0
For paying off and discharging the exchequer bills, made out by virtue of an act, passed in the 8th year of his present Majesty's reign, intitled, An Act for raising a certain sum of money by loans or exchequer bills, and charged upon the first aids to be granted in this session	1,800,000	0	0
	1,824,347	1	11

FEBRUARY 23.

For Charles Dingley, of London, merchant, as a reward to him for having erected and brought to perfection, for the benefit of the public, a wind-saw-mill at Limehouse, for the purpose of manufacturing timber into wainscot and deals; and as a recompence for the loss he sustained in the wilful destruction of the said wind-saw-mill, by a number of riotous and disorderly persons, in the month of May last	2,000	0	0

MARCH 2.

To discharge the arrears and debts due and owing upon the civil list, on the 5th Jan. 1769	513,511	0	0

MARCH 7.

Towards erecting a magazine for gunpowder, at Priddy's Hard, in Portsmouth harbour	4,000	0	0

MARCH 14.

Towards defraying the extraordinary expences of his Majesty's land forces, and other services incurred to the 23rd Dec. 1768, and not provided for by parliament	238,557	2	2
To replace to the Sinking Fund, the like sum issued thereout, to make good the deficiency, on the 5th July 1763, of the fund established for paying annuities, in respect of 5,000,000*l.* borrowed by virtue of an act made in the 31st year of his late majesty, towards the supply granted for the service of 1758	47,531	18	6
To replace to ditto, the like sum paid out of the same, to make good the deficiency on the 5th April 1768, of the fund established for paying annuities in respect of 3,500,000*l.* borrowed by virtue of an act of the 3rd of his present Majesty, towards the supply granted for the service of 1763	18,930	3	4¼
	305,019	4	0¼

MARCH 23.

That provision be made for paying and clothing of the militia, and for their

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subsistence during the time they shall be absent from home on account of the annual exercise, for 1769.

April 10.			
Upon account, to enable the Foundling Hospital to maintain and educate such children as were received into the same, on or before the 25th March 1760, from the 21st Dec. 1768, exclusive, to the 31st Dec. 1769 inclusive, and the said sum to be issued without any deduction	19,957	10	0
Upon account, for enabling the said hospital to put out apprentice the said children, so as that the said hospital do not give with one child more than 7*l.*	5,600	0	0
Upon account, to repay to the governors and guardians of the said hospital, the like sum advanced by them, for apprenticing such children as were received into it, on or before the 25th March, 1760, over and above the sums granted by parliament for that purpose	3,231	16	0
To make good to his Majesty the like sum, which has been issued by his Majesty's orders, in pursuance of the addresses of the House	16,500	0	0
Towards carrying on an additional building for a more commodious passage to the House of Commons	3,000	0	0
Towards paying off and discharging the debts of the navy	400,000	0	0
To make good the deficiency of the grants for the service of 1768	186,043	1	7¼
For repairing, maintaining, and supporting the British forts and settlements on the coast of Africa	2,000	0	0
	649,332	7	7¼
April 11.			
To pay the benefit prizes in the present lottery, charged upon the supplies of the current year	600,000	0	0
April 12.			
To be advanced to the governor and company of the merchants of England, trading into the Levant seas, to be applied in assisting the said company in carrying on their trade	5,000	0	0
April 20.			
To be applied for making a new road at the foot of the mountain of Penmaen Mawr, and thereby securing a certain communication between Great Britain and Ireland, by way of Holyhead	2,000	0	0
May 1.			
To Frederick Lafontaine, or to such person or persons as his Majesty shall think proper, to encourage the making of saltpetre in Great Britain, under the inspection of the board of ordnance	2,000	0	0
Total of the Supplies granted this Session	6,909,003	4	10¼

Ways and Means *for the Year* 1769.] The following are the Resolutions of the Committee of Ways and Means:

Nov. 24, 1768. That the duties upon malt, mum, cyder, and perry, be continued from 23d June, 1769, to the 24th June, 1770, and charged upon all the malt which shall be made, and all mum which shall be made or imported, and all cyder and perry, which shall be made for sale within the kingdom of Great Britain, 700,000*l.*

Dec. 6. That the sum of 3*s.* in the pound and no more, be raised within the space of one year, from the 25th March, 1769, upon lands, tenements, hereditaments, pensions, and personal estates, in that part of Great Britain called England, Wales, and the town of Berwick upon Tweed; and that a proportionable cess, according to the ninth article of the Treaty of Union, be laid upon that part of Great Britain called Scotland, 1,528,568*l.* 11*s.* 11½*d.*

Feb. 23, 1769. That 1,800,000*l.* be raised by loans, or exchequer bills, to be charged upon the first aids to be granted in the next session of parliament; and such exchequer bills, if not discharged, with interest thereupon, on or before the 5th April, 1770, to be exchanged and received in payment, in such manner as exchequer bills have usually been exchanged and received in payment.

March 14. That the duties of excise, payable upon seal skins, tanned, tawed,

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or dressed, within this kingdom, be taken off. That in lieu thereof a duty of excise be laid upon seal skins, which shall be tanned, tawed, or dressed in this kingdom, after the rate of 1½*d.* for every pound weight avoirdupoise of such skins. And, That the said duty be applied to such uses as the said duties to be taken off are now appropriated unto.

March 23. That the charge of the pay and clothing of the militia, in that part of Great Britain called England, for one year, beginning the 25th March, 1769, be defrayed out of the monies arising by the land tax granted for the service of the year 1769.

April 10. That 400,000*l.* which, by an act made in the 7th year of his present Majesty's reign, intitled, 'An Act for establishing an agreement for the payment of the annual sum of 400,000*l.* for a limited time, by the East India Company, in respect of the territorial acquisitions and revenues lately obtained in the East Indies,' is directed to be paid, within the present year, into the receipt of his Majesty's exchequer, by the said Company, be applied towards making good the supply granted to his Majesty.

April 11. 1. That 780,000*l.* be raised, by way of lottery; such lottery to consist of 60,000 tickets, at 13*l.* each.

2. That a sum not exceeding 30,000*l.* out of such monies as shall be paid into the receipt of the exchequer, after the 4th of April, 1769, and on or before the 5th of April, 1770, of the produce of all or any of the duties and revenues, which, by any act or acts of parliament, have been directed to be reserved for the disposition of parliament, towards defraying the necessary expences of defending, protecting, and securing the British colonies and plantations in America, be applied towards making good such part of the supply as hath been granted to his Majesty for maintaining his Majesty's forces and garrisons in the plantations, and for provisions for the forces in North America, Nova Scotia, Newfoundland, and the ceded islands, for the year 1769.

3. That such of the monies as shall be paid into the receipt of the exchequer, after the 4th of April, 1769, and on or before the 5th of April, 1770, of the produce of the duties charged by an act of parliament made in the 5th year of his present Majesty's reign, upon the importation and exportation of gum senega and gum arabic, be applied towards making good the supply granted to his Majesty.

April 12. 1. That towards making good the supply granted to his Majesty, there be issued and applied the sum of 135,177*l.* 15*s.* 6½*d.* remaining in the exchequer, on the 5th of April, 1769, for the disposition of parliament, of the monies which had then arisen, of the surplusses, excesses, or overplus monies, and other revenues composing the fund commonly called the Sinking Fund.

2. That towards raising the supply granted to his Majesty, there be issued and applied the sum of 1,664,822*l.* 4*s.* 5*d*½. out of such monies as shall or may arise of the surplusses, excesses, or overplus monies, and other revenues composing the fund commonly called the Sinking Fund.

3. That such part of the duties which have been, or shall be, paid upon iron imported in foreign-built ships, navigated by foreigners, as exceeds the duties payable upon iron imported in British-built ships, navigated by British subjects, be not drawn back upon re-exportation.

4. That the drawback, which was formerly payable upon the exportation of foreign rough hemp, and which was discontinued by an act made in the 6th year of his present Majesty, be restored, upon condition that the pre-emption thereof be offered to the commissioners of the navy. And that an act, made in the fourth year of his present Majesty's reign, intitled, 'An Act for granting, for a limited time, a liberty to carry rice from his Majesty's provinces of South Carolina and Georgia, directly to any part of America to the southward of the said provinces, subject to the like duty as is now paid on the exportation of rice from the said colonies to places in Europe situate to the southward of Cape Finisterre,' which was to continue in force for five years, from the 24th of June, 1764, and from thence to the end of the then next session of parliament, and also a clause in an act passed in the 5th year of his said Majesty's reign, intitled, 'An Act for more effectually securing and encouraging the trade of his Majesty's American dominions; for repealing the inland duty on coffee, imposed by an act made in the 32d year of his late majesty king George 2, and for granting an inland duty on all coffee imported (except coffee of the growth of the British dominions in America); for altering the bounties and drawbacks upon sugars exported; for repealing part of an act made in the 23d year of his said late majesty, whereby bar iron made in the said dominions was

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prohibited to be exported from Great Britain, or carried coast-wise; and for regulating the fees of the officers of the customs in the said dominions,' which gives liberty to export rice from North Carolina, in the same manner, and during the same limited time, under the like entries, securities, restrictions, regulations, limitations, duties, penalties, and forfeitures, as are enacted by the said act made in the 4th year of his present Majesty's reign with respect to South Carolina and Georgia, are near expiring, and fit to be continued.

April 15. To make perpetual an act made in the 1st year of the reign of his present Majesty, intitled, 'An Act to continue the duties for encouragement of coinage of money.'

April 17. That the annual sum of 1,500*l.* granted to his Majesty, to be paid to the principal secretaries of state, to be distributed among the clerks in their respective offices, in compensation for the advantages which such clerks enjoyed from their sending and receiving letters and packets free from the duty of postage, before the commencement of an act made in the 4th year of his present Majesty's reign, intitled, 'An Act for preventing frauds and abuses, in relation to the sending and receiving of letters and packets free from the duty of postage,' be charged upon, and made payable out of, the revenues arising in the general letter-office, or post-office, or office of postmaster-general.

April 18. 1. That a sum not exceeding 109,864*l.* 19*s.* 4½*d.* out of the money remaining unapplied, of the winter stoppage of 6*d.* per day, made on the non-commissioned officers and private men of the regiments of cavalry, serving in Germany in the last war, and of the balance of the stock purse account of two regiments of cavalry; and also out of the monies due upon the final account, ended the 24th Dec., 1755, of William earl of Chatham, formerly paymaster general of his Majesty's forces; and of the final account of Thomas Calcraft, esq. late paymaster of the royal bounty to the widows of the officers of his Majesty's land forces and marines, and the widows of half-pay officers, ended the 24th of Dec., 1762; and also out of the monies remaining in the office of the pay-master general of his Majesty's forces subject to the disposition of parliament; be applied towards making good the supply granted to his Majesty, towards defraying the extraordinary expences of his Majesty's land forces, and other services, incurred to the 23d Dec., 1768, and not provided for by parliament. And

2. That, towards making good the supply granted to his Majesty, there be applied the sum of 59,879*l.* 8*s.* 5½*d.* remaining in the receipt of the exchequer, on the 9th April, 1769, for the disposition of parliament, over and above the surplus of the Sinking Fund then remaining for the same purpose.

3. That the farther encouragement of the growth and culture of raw silk, in his Majesty's colonies and plantations in America, will be a great advantage to the trade and manufactures of Great Britain.

4. That a bounty on the importation of raw silk, of the growth and produce of his Majesty's colonies and plantations in America, will be a proper encouragement for promoting the growth and culture thereof in the said colonies and plantations. And

5. That a bounty be granted upon raw silk, of the produce of his Majesty's colonies or plantations in America, imported directly from America, under proper regulations, into the port of London, for the term of 21 years, in manner following; that is to say, during the first seven years, the sum of 25*l.* for every 100*l.* value of such raw silk; during the next seven years, the sum of 20*l.* for every 100*l.* value of such raw silk; and, during the last seven years, the sum of 15*l.* for every 100*l.* value of such raw silk; and that such bounty be paid out of his Majesty's customs.

*The King's Speech at the Close of the Session.**] May 9. The King put an end

* "The allusion in the King's Speech, at the close of the session, to the perturbed state of the public mind, was strongly founded in fact; for at no period of history was a more general, audacious, and clamorous opposition exhibited in a regular government. Before the rising of parliament, a letter was received by the Speaker of the House of Commons, enumerating supposed encroachments on the liberties of the people, and threatening another revolution. Every artifice was used to increase the fury of the public, and incite them to make the privilege of petitioning, reserved by the Bill of Rights, the means of giving pain to the King, and conveying sentiments of disloyalty to the foot of the throne. Among the engines used to forward the views of faction, and keep alive the irritability of the populace, was Allen, the father of the unfortunate youth who was killed in the riot in St. George's Fields. A

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to the session, with the following Speech to both Houses:

"My Lords and Gentlemen;

"Having thought it necessary to give so early a commencement to the present session of parliament, I am glad to find, that by your zeal and assiduity in the dispatch of public business, I am now enabled to relieve you from your attendance, before the season of the year is too far advanced.

"I cannot put an end to the session,

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tomb-stone was erected, inscribed on all sides with inflammatory narratives, verses, and texts from the holy scripture, describing his fate in acrimonious terms, and invoking vengeance on his murderers. The parent was also induced to attend at St. James's with a petition which, in terms of reproach and clamorous invective, demanded justice against "The cruel murderers of his beloved child, whose blood cried aloud for vengeance."

"The rage of publishing disloyal proclamations, under the form of petitions, was now general, and the county of Middlesex took the lead. Fifteen hundred and sixty-five freeholders signed a Petition to the King, containing a series of aspersions on his conduct from the period of his accession, accusing the ministers of treason, and praying for their dismission. The citizens of London adopted a similar measure, and made their conduct still more conspicuous by altercations with the secretary of state, and lord Huntingdon, on points of etiquette. Their petition was an abstract of that from the county of Middlesex, with some additions, and was presented to the King at a levee. The electors of Westminster petitioned for a dissolution of parliament, and their example was followed by many counties, cities, and towns throughout the kingdom. A few addresses of an opposite tendency were presented.

"Among the most conspicuous of those whom the rage of political discussion engaged in publications, was an anonymous author, who sent his productions to a newspaper, under the signature of Junius. His essays commenced with the present year, and, with occasional interruptions, continued till the beginning of 1772. In him the ministry found a severe and formidable censor: his information was extensive and minute, and applied to many objects which were supposed to be secret. He detailed without scruple or delicacy, all the facts in his possession, and often supplied a deficiency of information by bold conjecture or shameless fiction. His writings were distinguished by energy of thought, perspicuity of style, felicity of illustration, and brilliancy of wit: but his wit was scurrilous and malignant; wounding, without remorse, the honour of a gentleman, the feelings of a father, and the dignity of the sovereign. Although he made personal topics the principal vehicles of his satire, his knowledge was not confined to mere anecdote, but comprised a general acquaintance with the laws and constitution of the country, the history and usages of parliament. Junius was long the admiration of England, but perhaps his talents were too highly valued. Many political writers before him had possessed his advantages; and whatever opinion may have been studiously diffused respecting his knowledge, wit, and eloquence, in these requisites he did not excel the great party champions of the late reign, Bolingbroke, Pulteney, and Chesterfield. The secrecy in which he effectually involved his real person, was highly advantageous to him as a writer. It furnished him with the opportunity of declaring such sentiments as would be agreeable to the public, without reference to any opinions he might previously have entertained, and enabled him to assail men in every rank and condition of life, without possibility of retaliation, or dread of inquiry. Those who answered, presented a full mark to his assaults, and their principles, manners, professions, and even their habits, were unsparingly attacked, while he remained impassive to reproach, and exempt from the necessity of defence. Perhaps too much of the curiosity and eagerness with which his publications were received, resulted from this circumstance. A series of satires presented for so long a period, from one pen, would have ceased to excite regard, had any circumstance respecting the author been known. Those who by his conversation could have learned his sentiments, by his connexions could have divined his motives, or from his pursuits have explored his means of information, would soon have become languid readers, and the sensation of indifference, spreading from several quarters, would have extended to a general disregard, perhaps to contempt. Even with all the advantages he possessed, Junius, in order to stimulate the public curiosity, was occasionally compelled to assume a tone of brutal ferocity, which reduced his compositions to a level with those of the most profligate libellers, and sanctioned the imputation of a motive for concealment, very remote from an honourable love of freedom in the declaration of his opinions.

"Anxious to gratify to the utmost that licentious disposition on which the success of his productions in a great measure depended, this writer thought fit to address to the public, through his accustomed channel, a most virulent attack on the person, conduct, and government of the King, and threatened general dissatisfaction, rebellion, and revolution, as the result of the present measures. By this letter, the printer, and several others who re-published it, incurred the penalties of the law; but the popularity of the author was not diminished by the audacity which impelled him to the verge of treason.

"With a view to embarrass government, the city of London resolved again to nominate alderman Beckford lord mayor. An attempt

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without expressing my entire approbation of your conduct; and thanking you for that clear demonstration which your proceedings, through the whole course of the session, have afforded to all the world, of the affectionate attachment of my parliament to my person and government, as well as of their steady adherence to the true interest of their country.

"It was with much satisfaction that I observed your particular attention to those great national objects, which, at the open-

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was made to prevent his election, by referring to some bye-laws of the corporation, passed in the reigns of Henry 6, and Henry 8, by which it was declared that the same person could not serve the office of lord mayor twice within seven years; but this objection was over-ruled by precedents. Mr. Beckford, declining the proposed honour, was clamorously urged by the livery, and at length agreed to accept it. Lord Holland, who had been grossly reflected on, in the late petition of the livery to the King, wrote to the late lord mayor, requesting to know the author of the aspersion: the livery now passed resolutions, avowing the intention to apply those accusations to lord Holland, and urging their representatives to procure his impeachment." Adolphus.

"During the summer, discontents arose in England to a greater height than in any preceding period of the reign. Although the conduct of administration respecting America had its share in exciting dissatisfaction, yet the chief cause was the proceedings against Mr. Wilkes, especially with regard to the Middlesex election. The nomination of Mr. Luttrell involved in it a totally different question from the expulsion of Mr. Wilkes. The expulsion, whether well or ill founded, was a question of individual conduct, of which the justice or injustice terminated in Mr. Wilkes himself, without affecting any other person; but the nomination of a man supported by a minority involved a constitutional right, and the decision might eventually affect many others. A subject which so greatly agitated and interested the public mind, naturally became a theme of literary discussion, and the ablest men were engaged on both sides. The question at issue was, Whether expulsion constituted disqualification during the current parliament? The supporters of the affirmative contended, that the power of disqualifying persons from being members of its body was inherent in the House of Commons, and that its exertion could be demonstrated from precedents. The force of Dr. Johnson was employed on this side of the question, in the essay which was entitled, "False Alarm:" and his chief argument was, that the power of disqualifying expelled members, was necessary to the House of Commons; as expulsion with re-eligibity would be a nominal, not a real punishment. He also quoted the case of sir Robert Walpole, and dwelt on the individual character of Mr. Wilkes. Political expediency, however, could not prove existing law; and individual character was irrelative to a question of privilege between constituents and the representative body. The writer who entered most fully and minutely into this question, upon the real grounds of law and precedent, was the celebrated Junius. He defied his adversaries to produce any statute applicable to the subject. The precedent on which ministers rested, was the case of Walpole; but, as Junius shews, the judgment of the House was quite different. [See Letter xvi. dated July 19th, 1769.] Mr. Wilkes was expelled, so was Mr. Walpole; Mr. Wilkes was re-elected by a majority of votes, so was Mr. Walpole. The friends of Mr. Taylor, the opposing candidate, petitioned parliament, that he, though supported by a minority, should be returned; the House determined that Mr. Taylor was not duly elected. Mr. Luttrell, supported by a minority, was declared by the House to be duly returned. Mr. Wilkes was declared incapable of being elected, because he had been expelled; Mr. Walpole was declared incapable of sitting in parliament, not because he had been expelled, but because he was deemed guilty of a breach of trust and notorious corruption in his official character of secretary at war.

"The Middlesex election was one occasion which called forth the epistolary eloquence of this renowned writer; but the objects of its exertion and the range of its expatiation were far more extensive. During the supremacy of the Whigs, the influence of public opinion had very rapidly increased throughout the English nation. The same spirit of inquiry that had scrutinized the actions of the Stuart princes, operated with redoubled force after the Revolution had ascertained the extent and bounds of privilege and prerogative; and the consequent laws had sanctioned the use of freedom's most powerful engine, the press, tried and proved in the contentions of the Whigs and Tories in the reigns of William and Anne; of ministerial and anti-ministerial parties, while Walpole sat at the helm of affairs: the efficacy of this energetic instrument was more fully essayed since the accession of the present sovereign to the throne; and most successfully employed in counteracting the liberal and comprehensive policy which, without respect of parties, sought official fitness in the ministers of the crown. Misapprehending, or perverting ingenuity, charged the failure of erroneous or premature means to the impolicy of the general end; and endeavoured to demonstrate, that every censurable measure of individual ministers arose from the new system, and that the only remedy for the evils under which the country and its dependencies labour, was the renewal of the Whig monopoly. These were the propositions which the parliamentary orators of the aristocratical confederacy wished to inculcate themselves, and also to disseminate

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ing of the session, I recommended to your more immediate consideration. The result of your deliberations, respecting the late acquisitions in the East Indies, has shewn that you were no more attentive to the immediate benefit arising therefrom in point of revenue, than to the securing, at all events, the permanent commercial interests of this country, and guarding against every possible discouragement to our own manufactures, and to the industry of my subjects. What more remains to

through literary co-adjutors. To this phalanx of opposition and discontent, several senators, and many writers, who were not partizans, adhered; in the course of the contests, the high and growing authority of the press was daily more manifest, and in the estimation of the multitude rivalled parliament itself, and the Whig combination entertained sanguine hopes, that through intrinsic force, aided by literary eloquence that fanned the popular flame, they should at length succeed in restoring the former system, and recovering the direction of the royal councils. To regain for the Whigs and their supporters the sole possession of the political fortress, fought their champion Junius. Personal motives evidently inflamed this writer against individual officers of the crown, whom party considerations induced him to assail, as members of a body which was to be driven from the councils of the King, to make way for the restoration of the Whigs. He began his warfare in January 1769, by a general view of the state of the country; described Britain, as internally distracted, and as little regarded by foreign powers; and assuming the truth of his account, imputed the alleged evils to the new system and the existing ministers. He thence descended to specific measures, and the respective characters of the chief members of the administration; with a two-fold purpose, of deriving the counsels from the new plan of royal policy, and its alleged framer and conductor lord Bute; and demonstrating that the chief officers of the crown were, from private profligacy, public corruption, or political prepossessions, the fittest for carrying it into execution. The Middlesex election, at an early period of his work, afforded him an opportunity of inveighing against ministers, and attacking parliament as meanly condescending to be the tool of government in violating the rights of electors, and depriving Englishmen of their constitutional and most valuable franchise. Keeping directly to his purpose, he deduced the Middlesex election from the new system, and the ministers who had been chosen to render it effectual. To the same cause he ascribed the various acts, legislative, executive, and judicial, which he reprobated in the course of his writings. With skilful unity of design, the details and result of his eloquence, were adapted to his purposes of impressing the public with an opinion, that the whole policy of the present reign had been unconstitutional in principles, at once feeble and oppressive in operation, and pernicious in effect. Advanced not in the impassioned hour of contentious and temporary debate, but in an uniform series of deliberate inculcation, such assertions evidently conveyed an indirect censure of the sovereign; but circuitous attack was not sufficient for the purpose of Junius. A direct address to the King himself, he thought, would more effectually accomplish the end for which he employed his pen. Composed with exquisite skill and great ability; dexterously adapted to the popular prejudices, and the views of the Whigs, his letters had converged all the rays of discontent into one focus; now was the time for exciting a flame, which should consume every object that was hostile to the confederacy of the Whigs. He wrote a letter, that contained a direct and virulent attack on the conduct and government of the King; in which the errors imputed to the monarch's administration were his dereliction of the policy [Junius's Letter to the King, December 19th, 1769,] of his two predecessors; his choice of servants without regard to the Whig connection, his employment of Scotchmen, and the series of successive measures which these changes had produced. The consequences (said Junius to his sovereign) must be dissatisfaction, rebellion, and revolution: unless the King should cease to govern according to his own judgment and choice, and should yield his understanding and will to the implicit direction of a party. Such was the object and nature of the Letters of Junius, which continued to be published for near four years; and to insure almost unprecedented circulation through the union of the prevalent violence of popular licentiousness, with vigorous and masterly composition. For clearness, precision, and force of style, select phraseology, dexterous arrangement, impressiveness of manner, giving the materials the most pointed effect, these productions have rarely been exceeded, and not often equalled, by political publications; but he who shall look into Junius for a close chain of antecedents and consequents, facts, and legitimate inferences, will be disappointed, by seeking for what the author never intended to bestow, and what would not have answered his purpose. Junius could reason clearly and strongly; but he did not constantly argue conclusively, because his object was, not to enlighten the understanding, but to inflame the passions. He gratified the people by repeating to them, in strong and nervous language, their own notions and feelings: he pleased them not by the justness of performance, but by dexterously chiming their favourite tunes. His charges against the dukes of Grafton and Bedford represent those noblemen as the most profligate and abandoned men that ever had disgraced the British senate or cabinet; but

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be done, for securing the possession of those valuable acquisitions, you will, I doubt not, proceed to provide for, with all convenient dispatch, at your next meeting.

"The measures which I have taken regarding the late unhappy disturbances in North America, have been already laid before you. They have received your approbation; and you have assured me of your firm support in the prosecution of them. Nothing, in my opinion, could be more likely to enable the well disposed

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what impartial estimator of political characters would form his judgment from accusations that were substantiated by no proof, and totally inconsistent with probability? The illustrious Mansfield he described as a most corrupt and unjust judge, as a mean time-serving and unprincipled courtier, and as a Jacobite, inimical to the King and government which he professed to support. What weight would an impartial investigator of merit allow to such calumnious allegations, not only unsupported by any proof, but disproved by the whole tenor and course of the life and conduct of their object. Aware, that in the misapprehension of party rage, the slander of dignity and merit was one road to popularity, Junius insulted a much more exalted character, and completed his calumny by charges which were equally false and seditious. History, after taking a retrospective view of Grecian and Roman demagogues, will scarcely be able to present such an instance of invective, ingenious and inflammatory; scurrility, nervous and elegant; plausible sophistry, impressive declamation, poignant and sarcastic malice, as in the English orator of the Iron Mask. These anonymous effusions were not prized only by such critics as composed Mr. Wilkes's election mobs, but by readers of real abilities and learning, who, hostile to government, and approving the spirit which they breathed, did not rigorously scrutinize the arguments; men of taste, charmed with the beauties of the composition, overlooked the reasoning and tendency; and never was a political work more universally perused than the Letters of Junius.

"Ministers, aware of the prevailing discontents, endeavoured to procure addresses which might counteract the popular spirit, but were in England by no means successful. Essex, Kent, Surry, and Salop, were the only counties; the universities of Oxford and Cambridge, the cities of Bristol and Coventry, and the town of Liverpool, the only corporations of note that expressed the sentiments desired by government. From Scotland, however, the addresses were more numerous and agreeable to ministry. Petitions, on the contrary, were presented from many counties, cities, and corporations, and these were of two very different classes: one set, though explicit, was temperate; and, though forcible, decorous: of this species, the best written and most distinguished were from Buckinghamshire and Yorkshire, supposed to have been respectively framed by Mr. Burke and sir George Saville. These confined themselves to the rights of election, which they asserted to be violated; and, either indirectly or expressly, prayed for a dissolution of parliament. The other class, though nominally petitions, were false and indecent remonstrances; of these, the most noted and prominent were from Middlesex and the city of London. They professed to review the whole series of acts during his present Majesty's reign. According to their account, the King had been uniformly directed by profligate counsellors, who had infused into the royal mind sentiments and counsels of the most dangerous tendency to the liberties and happiness of his subjects; from those pernicious counsels, according to their assertion and enumeration, had proceeded the corruption of all the orders, and violation of the most sacred rights of Englishmen; and the reign of the King was a tissue of unjust, tyrannical, and cruel acts, flowing from the legislative, executive, and judicative estates: after this statement, they proceeded to pray, that he would banish from his royal favour, trust, and confidence, his evil and pernicious counsellors. Though the tenor and language of the Middlesex and London petitions were essentially the same, the latter was rendered more notorious, by the perseverance of unfounded expostulation with which its promoters obtruded their abusive charges upon their sovereign. False as many of the allegations were, yet, coming from the most opulent body in the kingdom, they had very great influence in spreading the discontents, and the dissatisfaction had risen to an extraordinary height before the meeting of the legislature." Bisset.

"The ferment raised in the nation by the late decision of the House of Commons seemed in the mean time daily to increase in violence. A very bold Petition was presented to the King by the freeholders of the county of Middlesex, in which they enlarged on the uniform tendency of the measures of the present reign to destroy that harmony which ought to subsist between the prince and the people; and they concluded a long catalogue of grievances and apprehensions, by declaring, that the right of election had been wrested from them by the unprecedented seating of a candidate who was never chosen by the county; who, even to become a candidate, was obliged fraudulently to vacate his seat in parliament. 'Deign then,' say they, 'most gracious sovereign, to listen to the prayer of the most faithful of your subjects, and to banish from your royal favor, trust, and confidence, for ever, those evil counsellors who have endeavoured to alienate your Majesty's affections from your most sincere and dutiful subjects, and who have traitorously dared to depart from the spirit and letter of those laws, which have secured the crown of these realms to the House of Brunswick.'

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among my subjects, in that part of the world, effectually to discourage and defeat the designs of the factious and seditious, than the hearty concurrence of every branch of the legislature in the resolution of maintaining the execution of the laws in every part of my dominions. And there is nothing I more ardently wish for, than to see it produce that good effect.

"With respect to foreign affairs, my own determination, as well as the assurances given me by the other powers of

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"The city of London presented a Petition to the same purport. But the city of Westminster, sensible, as they professed, that decisive measures are the best policy, petitioned expressly for an immediate dissolution of parliament. The county of York, and fourteen other principal counties, with many opulent cities and towns, followed this example; but it is not to be imagined that they could flatter themselves with any serious expectation of success. A few counter addresses were, with great difficulty, procured by the court, and one in particular from a respectable, though in number an inconsiderable proportion of merchants of London, who, in their procession to St. James's, were grossly insulted by the populace. The tumult alarmingly increasing as they approached the palace, the Riot Act was read at the palace-gate; and lord Talbot, lord steward, attempting to interpose, had his staff of office broken in his hand. Several persons were after a daring resistance taken into custody by the military, but the indictments subsequently preferred against them at Westminster Hall were all thrown out by the grand jury.

"Amidst the innumerable multitude of political publications, in which the conduct of the present administration was arraigned in the bitterest terms of severity, the national attention was particularly attracted by a series of letters appearing under the signature of Junius, and written in a style so masterly as to be generally deemed, in point of composition, equal to any literary productions in the English language. They consisted, however, of little else than splendid declamation and poignant invective, and discovered a cool and deliberate malignity of disposition, which, now the passions and follies of the day have vanished, and given place to other passions and other follies, must excite disgust at least proportionate to our admiration. Of these celebrated letters, by far the most memorable is that addressed to the King, in which the writer, with equal elegance and energy of diction, exhibits to the view of his sovereign a most striking and faithful picture of his administration. 'Whichever way,' says this anonymous and invisible speaker, at the conclusion of his epistle, 'you turn your eyes, you see nothing but perplexity and distress. You have still an honourable part to act—Discard those little personal resentments which have too long directed your public conduct—come forward to your people—lay aside the wretched formalities of a king—tell them you have been fatally deceived. This is not a time to trifle with your fortune—the people of England are loyal to the House of Hanover, not from a vain preference of one family to another, but from a conviction that the establishment of that family was necessary to the support of their civil and religious liberties. This, Sir, is a principle of allegiance equally solid and rational, fit for Englishmen to adopt, and well worthy of your Majesty's encouragement. We cannot long be deluded by nominal distinctions—the name of Stuart of itself is only contemptible; armed with the sovereign authority, their principles are formidable—the prince who imitates their conduct should be warned by their example, and, while he plumes himself upon the security of his title to the throne, should remember, that, as it was acquired by one revolution, it may be lost by another.'

"On the appearance of this letter, the Attorney General had orders immediately to file a bill *ex officio* in the court of King's-bench, against the publisher Woodfall, for uttering a false and seditious libel. Lord Mansfield, who presided on the trial, in summing up the evidence, informed the jury, that the fact of publication was all that came under their cognizance—the question of libel or no libel being a mere question of law, to be decided by the Court. This distinction most unquestionably was not authorized by the antient practice of the Courts, though in modern times it had gradually advanced itself into an established principle of jurisprudence. But it is evident that, if this doctrine be admitted, the proper use of juries is wholly superseded; and the judge is made, what the constitution never intended him to be—the arbiter of the fate of his fellow-subjects. In reality, it might as plausibly be asserted, that, in the cases of murder or robbery, the mere fact of deprivation of life, or seizure of property, should be found by the jury, and the judge be left to pronounce upon the criminality or innocence of the action, as that the question of law and fact should be separated in the matter of libel. Lord Mansfield himself was compelled in the present instance to admit the power of the jury to include both in a general verdict, though he affirmed the exercise of this power to be incompatible with their duty and their oath. That the determination of any mere question of law, arising out of the circumstances or facts given in evidence, properly and solely appertains to the Court, has never been disputed; and indeed such mere question of law is never submitted to the jury: but it is on the other hand equally clear to common sense, that when the charge or criminal allegation, compounded as it must necessarily be of law and fact, is referred to the jury, they betray the trust reposed in them, if, when the law is sufficiently appa-

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Europe, continue the same as I communicated to you at the beginning of this session: and, however unsuccessful my attempts have proved for preventing the unfortunate rupture which has happened between Russia and the Porte, I shall not fail to use my good offices towards restoring peace between those powers; and I trust that the calamities of war will not extend to any other part of Europe.

"Gentlemen of the House of Commons;

"My particular thanks are due to you, as well for the Supplies which you have granted me for the services of the current year, as for the provision which you have made for enabling me to discharge the debt incurred upon account of my civil government. Your readiness in relieving me from the difficulties increasing upon me from the continuance of that debt, I shall ever consider as an additional motive for me to endeavour to confine the expences of my civil government within such bounds as the honour of my crown can possibly admit of.

"My Lords and Gentlemen;

"It gives me great concern to be obliged to recommend to you, with more than ordinary earnestness, that you would all, in your several countries, exert your utmost efforts for the maintenance of public peace, and of good order among my people. You must be sensible that whatever obstructs, in any degree, the regular execution of the laws, or weakens the authority of the magistrate, must lessen the only security which my people can have for the undisturbed enjoyment of their rights and liberties. From your endeavours in this common cause, I promise myself the most salutary effect. On my part, no countenance or support shall be wanting: for as I have ever made, and ever shall make, our excellent constitution the rule of my own conduct; so shall I always consider it as equally my duty to exert every power with which that constitution has entrusted me, for preserving it safe from violations of every kind; being fully convinced, that in so doing, I shall most effectually provide for the true interest and happiness of my people."

The Parliament was then prorogued to the 14th of June; and was afterwards further prorogued to the 9th of January 1770.

THIRD SESSION

OF THE

THIRTEENTH PARLIAMENT

OF

GREAT BRITAIN.

1770.

The King's Speech on Opening the Session.] Jan. 9, 1770. The King went to the House of Peers and opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen;

"It is with much concern that I find myself obliged to open the session of parliament, with acquainting you, that the distemper among the Horned Cattle has lately broke out in this kingdom, notwithstanding every precaution that could be used for preventing the infection from foreign parts: upon the first notice of its actual appearance, my next attention was to endeavour to stop, if possible, its further progress; and as the success of those endeavours must, in all probability, have been entirely defeated by any the least degree of delay in the application of them, I thought it absolutely necessary, with the advice of my privy council, to give immediate directions for every step to be taken, that appeared most capable of checking the instant danger of the spreading of the infection, until I could have an opportunity of consulting my parliament upon some more permanent measures for secur-

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rent, they relinquish their grand constitutional privilege of deciding on the guilt or innocence of the person accused. In cases of peculiar difficulty, the jury are indeed with great propriety permitted to return a special verdict, in which the facts only are found, and it is left to the Court to apply the law in conformity to such specific statement: and surely it may be allowed by those who are most deeply versed in the mysteries of the law, that a jury, however incapable in certain cases to determine, i. e. to understand the law with the best assistance of the pleaders and of the Court, are at least competent to judge whether they do understand it or not. After long deliberation, the jury impannelled in the present cause returned their verdict, "Guilty of printing and publishing only;" thus virtually negativing the seditious meaning and intention, which being of the essence of the charge, though according to the new doctrine a question of pure law, the verdict amounted to an absolute acquittal, and the defendant Woodfall was discharged amidst the universal and unbounded acclamations of the people." Belsham.

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ing us against so great a calamity; and to your immediate and serious consideration, I earnestly recommend this very important object.

"I have given my parliament repeated assurances, that it has always been my fixed purpose to preserve the general tranquillity, maintaining, at the same time, the dignity and honour of my crown, together with the just rights and interests of my people; the uncommon burthens which my subjects have borne so cheerfully, in order to bring the late war to a happy conclusion, must be an additional motive to make me vigilant to prevent the present disturbances in Europe from extending to any part where the security, honour, or interest, of this nation may make it necessary for my crown to become a party: the assurances which I receive from the other great powers, afford me reason to believe, that my endeavours will continue to be successful. I shall still make the general interests of Europe the object of my attention, and while I steadily support my own rights, I shall be equally careful not to acknowledge the claims of any other powers, contrary to the limitations of the late treaties of peace.

"It is needless for me to recommend to the serious attention of my parliament the state of my government in America: I have endeavoured, on my part, by every means, to bring back my subjects there to their duty, and to a due sense of lawful authority. It gives me much concern to inform you, that the success of my endeavours has not answered my expectations; and that, in some of my colonies, many persons have embarked in measures highly unwarrantable, and calculated to destroy the commercial connection between them and the mother country.

"Gentlemen of the House of Commons;

"I have ordered the proper Estimates for the service of the current year to be laid before you. I am persuaded that your affection for my person and government, and your zeal for the public good, will induce you to grant such supplies as are necessary; and you may be assured that, on my part, they shall be managed with the strictest œconomy.

"My Lords and Gentlemen;

"As the welfare and prosperity of my people have always been the object of my wishes and the rule of my actions, so I am persuaded, from my experience of your conduct, that you will be governed in your proceedings by the same principles: my ready concurrence and support, in every measure that may serve to promote those ends, you may always depend upon. On you it will be now more than ever incumbent, most carefully to avoid all heats and animosities amongst yourselves, and to cultivate that spirit of harmony which becomes those who have but one common object in their view, and which may be most likely to give authority and efficacy to the result of your deliberations; such a conduct on your part will, above all things, contribute to maintain, in their proper lustre, the strength, the reputation, and the prosperity, of this country; to strengthen the attachment of my subjects to that excellent constitution of government from which they derive such distinguished advantages; and to cause the firm reliance and confidence which I have in the wisdom of my parliament, as well as in their zeal for the true interest of my people, to be justified and approved, both at home and abroad *."

Debate in the Lords on the Address of Thanks.†] His Majesty having retired,

* This Speech was unsparingly ridiculed in public the prints, and the session was nicknamed the Horned Cattle Session.

† The following is from the Gentleman's Magazine for January 1770.

A short Sketch of the Debate in the House of Lords, January 9, 1770.

The Speech was moved for by the duke of Ancaster, and seconded by lord Dunmore, a Scottish peer.

Lord *Chatham* was the next of consequence who spoke: he condemned in the strongest and most emphatic terms, the incapacitating vote of the House of Commons, by which they had rejected Mr. Wilkes, and seated Mr. Luttrell in his place, in direct violation of the laws of the land, and to the utter subversion of our free constitution. He was followed by Lord Chancellor *Camden*, who declared that he had accepted the seals at first without any conditions; that he meant not, therefore, to be *trammelled* by his Majesty, I beg pardon, said he, by his ministers: that he had suffered himself to be so too long; that, for some time, he had beheld, with silent indignation, the arbitrary measures which were pursuing by the ministry; that he had often drooped and hung down his head in council, and disapproved, by his looks, those steps, which he knew his avowed opposition could not prevent; that, however, he would do so no longer, but would openly and boldly speak his sentiments. That, as to the incapacitating vote, he was of the same opinion with the noble lord, who spoke

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The Duke of *Ancaster* moved, "That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House, for his most gracious Speech from the throne.

"To assure his Majesty, that it is with the greatest concern we have understood that the distemper among the Horned Cattle has lately broke out in this kingdom; to express our gratitude for his Majesty's paternal care and attention to the welfare of his people in the steps which it has pleased his Majesty to take, by and with the advice of his privy council, to check the instant danger of the spreading of the distemper upon the first notice of its appearance; and to assure his Majesty, that we will immediately enter into the most serious consideration of this very important object, and will exert our utmost endeavours in taking such effectual measures as may secure us against so great a calamity.

"To return our thanks to his Majesty for the repeated assurances his Majesty has been pleased to give us of his fixed purpose to preserve the peace, maintaining, at the same time, the dignity of his crown, and the interests of his people.

"To express our dutiful sense of his Majesty's provident attention to prevent the necessity of involving his subjects in fresh difficulties, after the great burthens to which they so cheerfully submitted, in order to bring the late war to a happy conclusion; and our satisfaction to find that the assurances given to his Majesty

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before him; that he considered it as a direct attack upon the first principles of the constitution; and that if, in giving his decision as a judge, he was to pay any regard to that vote, or any other vote of the House of Commons, in opposition to the known and established laws of the land, he should look upon himself as a traitor to his trust, and an enemy to his country; that the ministry, by their violent and tyrannical conduct, had alienated the minds of the people from his Majesty's government, he had almost said, from his Majesty's person; that in consequence, a spirit of discontent had spread itself into every corner of the kingdom, and was every day encreasing; and that if some methods were not devised to appease the clamours that so universally prevailed, he did not know but the people, in despair, might turn their own avengers, and take the redress of their grievances into their own hands. In a word, he accused the ministry, if not in express terms, yet by direct implication, of having formed a conspiracy against the liberties of their country.

Lord *Mansfield* was the next that spoke, and he began in such a manner, that many people imagined he was going to make the same declaration as the Chancellor. He owned, indeed, that as to his character as a judge, he was perfectly of the same opinion, and that if, in giving his decision in any court of justice, he was to have an eye to the incapacitating vote of the Commons, he should look upon himself as the greatest of tyrants, and the greatest of traitors; that, nevertheless, with regard to this vote in another view, he would say nothing; that he had often been asked his opinion of it, in public and in private, by friends and by strangers, within doors and without; that he had never given his opinion, that he would not now give it, and he did not know but he might carry it to the grave with him; that if the Commons had passed an unjustifiable vote, it was a matter between God and their own consciences, and nobody else had any thing to do with it; and that at all events, for their lordships to take notice of this vote in their Address to his Majesty, was to carry up to the throne a railing accusation against the Commons, which, perhaps, might excite a flame between the two Houses, that might not be so easily allayed; and that he therefore disapproved of the proposed amendment. Upon this,

Lord *Chatham* rose up a second time, and observed, that it plainly appeared from what the noble lord had said, that he concurred in sentiment with the opposition; for had he concurred with the ministry, he would, no doubt, have avowed his opinion; that it now behoved him equally to avow it in favour of the people; that he ought to do so as an honest man, as an independent man, as a man of courage and resolution; that to say, that if the Commons had passed an unjustifiable vote, it was a matter between God and their own consciences, and nobody else had any thing to do with it, was such a strange assertion as he had never heard, and involved a doctrine subversive of the constitution. What! if the Commons should pass a vote abolishing this House, abolishing their own House, and surrendering to the crown all the rights and liberties of the people, would it only be a matter between God and their own consciences, and would nobody else have any thing to do with it? You would have to do with it—I should have to do with it—every man in the kingdom would have to do with it—and every man in the kingdom would have a right to insist upon the repeal of such a treasonable vote, and to bring the authors of it to condign punishment. I therefore again call upon the noble lord to declare his opinion, unless he will lie under the imputation of being conscious to himself of the illegality of the vote, and yet being restrained, by some unworthy motive, from avowing it to the world.

Lord Mansfield replied not.

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by the other great powers of Europe, afford reason to hope that, without prejudice either to the honour of his crown, the rights of his people, or the general interests of Europe, it may still be in his Majesty's power to continue to his subjects the farther enjoyment of the blessings of peace.

"To assure his Majesty, that we will take into our most serious consideration the state of his government in America; to express our utmost concern that his Majesty's paternal endeavours to bring back his subjects there to a due sense of lawful authority, have not answered his Majesty's expectations; and that we shall be ready to give every assistance in our power for rendering effectual these his Majesty's gracious intentions, and for discountenancing those unwarrantable measures practised in some of his Majesty's colonies, which appear calculated to destroy the commercial connection between them and the mother country.

"To assure his Majesty, that we are thoroughly sensible that the welfare of his people has ever been the object of his wishes, and the rule of all his actions; and that we will endeavour to deserve the favourable opinion which his Majesty is graciously pleased to express of our being governed by the same principles: that we have a most thorough reliance on his Majesty's promised support, in such measures as may serve to promote those ends: that as it is peculiarly incumbent upon us, at present, to avoid heats and animosities among ourselves, so we shall endeavour to cultivate that harmony which is so necessary to the common cause, and which alone can render our deliberations respectable and effectual; being fully persuaded that such a conduct, on our part, must greatly contribute to the happiness and prosperity of this country, and to establish a due sense of the very distinguished advantages of our happy constitution, as well as a firm attachment to it, and must justify, both at home and abroad, his Majesty's gracious confidence in the wisdom of his parliament, and in their zeal for the true interests of his people."

Lord *Dunmore* seconded the motion.

The Earl of *Chatham**, after some compliments to the noble mover, took notice how happy it would have made him to have been able to concur with the noble duke in every part of an Address, which was meant as a mark of respect and duty to the crown—professed personal obligations to the King, and veneration for him; that, though he might differ from the noble duke in form of expressing his duty to the crown, he hoped he should give his Majesty a more substantial proof of his attachment than if he agreed with the motion. That, at his time of life, and loaded as he was with infirmities, he might perhaps have stood excused if he had continued in his retirement, and never taken part again in public affairs. But that the alarming state of the nation called upon him, forced him to come forward once more, and to execute that duty which he owed to God, to his sovereign, and to his country; that he was determined to perform it, even at the hazard of his life. That there never was a period which called more forcibly than the present, for the serious attention and consideration of that House; that as they were the hereditary counsellors of the crown, it was particularly their duty, at a crisis of such importance and danger, to lay before their sovereign the true state and condition of his subjects, the discontent which universally prevailed amongst them, the distresses under which they laboured, the injuries they complained of, and the true causes of this unhappy state of affairs.

That he had heard with great concern of the distemper among the cattle, and was very ready to give his approbation to those prudent measures which the council had taken for putting a stop to so dreadful a calamity. That he was satisfied there was a power in some degree arbitrary, with which the constitution trusted the crown, to be made use of under correction of the legislature, and at the hazard of the minister, upon any sudden emergency, or unforeseen calamity, which might threaten the welfare of the people, or the safety of the state. That on this principle he had himself advised a measure, which he knew was not strictly legal; but he had recommended it as a measure of necessity, to save a starving people from famine, and had submitted to the judgment of his country.

That he was extremely glad to hear, what he owned he did not believe when he came into the House, that the King had reason to expect that his endeavours

* This very important Debate was taken by a gentleman, who afterwards made a distinguished figure in the House of Commons; and by him it has been obligingly revised for this Work [A. D. 1813.]

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to secure the peace of this country would be successful; for that certainly a peace was never so necessary as at a time when we were torn to pieces by divisions and distractions in every part of his Majesty's dominions. That he had always considered the late peace, however necessary in the then exhausted condition of this country, as by no means equal in point of advantage to what we had a right to expect from the successes of the war, and from the still more exhausted condition of our enemies. That, having deserted our allies, we were left without alliances, and during a peace of seven years, had been every moment on the verge of a war: that, on the contrary, France had attentively cultivated her allies, particularly Spain, by every mark of cordiality and respect. That if a war was unavoidable, we must enter into it without a single ally, while the whole House of Bourbon was united within itself, and supported by the closest connections with the principal powers in Europe. That the situation of our foreign affairs was undoubtedly a matter of moment, and highly worthy their lordships' consideration; but that he declared with grief, there were other matters still more important, and more urgently demanding their attention. He meant the distractions and divisions which prevailed in every part of the empire. He lamented the unhappy measures which had divided the colonies from the mother country, and which he feared had drawn them into excesses which he could not justify. He owned his natural partiality to America, and was inclined to make allowance even for those excesses. That they ought to be treated with tenderness; for in his sense they were ebullitions of liberty, which broke out upon the skin, and were a sign, if not of perfect health, at least of vigorous constitution, and must not be driven in too suddenly, lest they should strike to the heart. He professed himself entirely ignorant of the present state of America, therefore should be cautious of giving any opinion of the measures fit to be pursued with respect to that country. That it was a maxim he had observed through life, when he had lost his way, to stop short, lest by proceeding without knowledge, and advancing (as he feared a noble duke had done) from one false step to another, he should wind himself into an inextricable labyrinth, and never be able to recover the right road. That as the House had yet no materials before them, by which they might judge of the proceedings of the colonies, he strongly objected to their passing that heavy censure upon them, which was conveyed in the word 'unwarrantable,' contained in the proposed Address. That it was passing a sentence without hearing the cause, or being acquainted with the facts, and might expose the proceedings of the House to be received abroad with indifference or disrespect. That if 'unwarrantable' meant any thing, it must mean illegal; and how could their lordships decide that proceedings, which had not been stated to them in any shape, were contrary to law? That what he had heard of the combinations in America, and of their success in supplying themselves with goods of their own manufacture, had indeed alarmed him much for the commercial interests of the mother country; but he could not conceive in what sense they could be called illegal, much less how a declaration of that House could remove the evil. That they were 'dangerous' indeed, and he greatly wished to have that word substituted for 'unwarrantable.' That we must look for other remedies. That the discontent of two millions of people deserved consideration; and the foundation of it ought to be removed. That this was the true way of putting a stop to combinations and manufactures in that country; but that he reserved himself to give his opinion more particularly on this subject, when authentic information of the state of America should be laid before the House; declaring only for the present, that we should be cautious how we invade the liberties of any part of our fellow subjects, however remote in situation, or unable to make resistance. That liberty was a plant that deserved to be cherished; that he loved the tree, and wished well to every branch of it. That, like the vine in the Scripture, it had spread from east to west, had embraced whole nations with its branches, and sheltered them under its leaves. That the Americans had purchased their liberty at a dear rate, since they had quitted their native country, and gone in search of freedom to a desert.

That the parts of the Address which he had already touched upon, however important in themselves, bore no comparison with that which still remained. That indeed there never was a time, at which the unanimity recommended to them by the King, was more necessary than at pre-

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sent; but he differed very much from the noble duke, with respect to the propriety or utility of those general assurances contained in the latter part of the Address. That the most perfect harmony in that House would have but little effect towards quieting the minds of the people, and removing their discontent. That it was the duty of that House to enquire into the causes of the notorious dissatisfaction expressed by the whole English nation, to state those causes to the Sovereign, and then give him their best advice in what manner he ought to act. That the privileges of the House of Peers, however transcendant, however appropriated to them, stood in fact upon the broad bottom of the people. They were no longer in the condition of the barons, their ancestors, who had separate interests and separate strength to support them. The rights of the greatest and of the meanest subjects now stood on the same foundation: the security of law, common to all. It was therefore their highest interest, as well as their duty, to watch over, and guard the people; for, when the people had lost their rights, those of the peerage would soon become insignificant. To argue from experience, he begged leave to refer their lordships to a most important passage in history, described by a man of great abilities, Mr. Robertson. This writer, in his Life of Charles the Fifth (a great, ambitious, wicked man), informs us that the peers of Castile were so far cajoled and seduced by him, as to join him in overturning that part of the cortez, which represented the people. They were weak enough to adopt, and base enough to be flattered with an expectation, that by assisting their master in this iniquitous purpose, they should increase their own strength and importance. What was the consequence? They exchanged the constitutional authority of peers, for the titular vanity of grandees. They were no longer a part of a parliament, for that they had destroyed; and when they pretended to have an opinion as grandees, he told them he did not understand it; and naturally enough, when they had surrendered their authority, treated their advice with contempt. The consequences did not stop here. He made use of the people whom he had enslaved to enslave others, and employed the strength of the Castilians to destroy the rights of their free neighbours of Arragon.

My lords, let this example be a lesson to us all. Let us be cautious how we admit an idea, that our rights stand on a footing different from those of the people. Let us be cautious how we invade the liberties of our fellow-subjects, however mean, however remote; for be assured, my lords, that in whatever part of the empire you suffer slavery to be established, whether it be in America or in Ireland, or here at home, you will find it a disease which spreads by contact, and soon reaches from the extremities to the heart. The man who has lost his own freedom, becomes from that moment an instrument in the hands of an ambitious prince, to destroy the freedom of others. These reflections, my lords, are but too applicable to our present situation. The liberty of the subject is invaded, not only in provinces, but here at home. The English people are loud in their complaints: they proclaim with one voice the injuries they have received: they demand redress, and depend upon it, my lords, that one way or other, they will have redress. They will never return to a state of tranquillity until they are redressed; nor ought they; for in my judgment, my lords, and I speak it boldly, it were better for them to perish in a glorious contention for their rights, than to purchase a slavish tranquillity at the expence of a single iota of the constitution. Let me entreat your lordships, then, in the name of all the duties you owe to your Sovereign, to your country, and to yourselves, to perform that office to which you are called by the constitution; by informing his Majesty truly of the condition of his subjects, and of the real cause of their dissatisfaction. I have considered the matter with most serious attention; and as I have not in my own breast the smallest doubt that the present universal discontent of the nation arises from the proceedings of the House of Commons upon the expulsion of Mr. Wilkes, I think that we ought, in our Address, to state that matter to the King. I have drawn up an Amendment to the Address, which I beg leave to submit to the consideration of the House; namely, that after the words "and which alone can render our deliberations respectable and effectual," be inserted the following words:

"And for these great and essential purposes, we will, with all convenient speed, take into our most serious consideration, the causes of the discontents which prevail in so many parts of your Majesty's dominions, and particularly the late proceedings in the House of Commons,

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"touching the Incapacity of John Wilkes, "esq. expelled by that House, to be "elected a member to serve in this pre- "sent parliament, thereby refusing, by "a Resolution of one branch of the legis- "lature only, to the subject his common "right, and depriving the electors of Mid- "dlesex of their free choice of a repre- "sentative."

The cautious and guarded terms in which this Amendment is drawn up, will, I hope, reconcile every noble lord who hears me to my opinion; and as I think no man can dispute the truth of the facts, so I am persuaded no man can dispute the propriety and necessity of laying those facts before his Majesty.

Lord *Mansfield* began with affirming, that he had never delivered any opinion upon the legality of the proceedings of the House of Commons on the Middlesex election, nor should he now, notwithstanding any thing that might be expected from him. That he had locked it up in his own breast, and it should die with him: that he wished to avoid speaking on the subject; but that the motion made by the noble lord, was of a nature too extraordinary and too alarming, to suffer him to be silent. He acknowledged the unhappy distracted state of the nation; but he was happy enough to affirm, with a safe conscience, that he had no ways contributed to it. That, in his opinion, declarations of the law made by either House of parliament were always attended with bad effects: he had constantly opposed them whenever he had an opportunity, and in his judicial capacity thought himself bound never to pay the least regard to them. That, although thoroughly convinced of the illegality of general warrants, which indeed naming no persons, were no warrants at all, he was sorry to see the House of Commons by their vote declare them to be illegal. That it looked like a legislative act, which yet had no force nor effect as a law: for, supposing the House had declared them to be legal, the courts in Westminster would nevertheless have been bound to declare the contrary; and consequently to throw a disrespect on the vote of the House: but he made a wide distinction between general declarations of law, and the particular decision which might be made by either House, in their judicial capacity, on a case coming regularly before them, and properly the subject of their jurisdiction. That here they did not act as legislators, pronouncing abstractedly and generally what the law was, and for the direction of others; but as judges, drawing the law from the several sources from which it ought to be drawn, for their own guidance in deciding the particular question before them, and applying it strictly to the decision of that question. That, for his own part, wherever the statute law was silent, he knew not where to look for the law of parliament, or for a definition of the privileges of either House, except in the proceedings and decisions of each House respectively. That he knew of no parliamentary code to judge of questions depending on the judicial authority of parliament, but the practice of each House, moderated or extended according to the wisdom of the House, and accommodated to the cases before them. That a question, touching the seat of a member in the lower House, could only be determined by that House; there was no other court where it could be tried, nor to which there could be an appeal from their decision. That wherever a court of justice is supreme, and their sentence final (which he apprehended no man would dispute was the case in the House of Commons, in matters touching elections), the determination of that court must be received and submitted to as the law of the land; for if there be no appeal from a judicial sentence, where shall that sentence be questioned, or how can it be reversed? He admitted that judges might be corrupt, and their sentences erroneous; but these were cases, for which, in respect to supreme courts, the constitution had provided no remedy. That, if they wilfully determined wrong, it was iniquitous indeed, and in the highest degree detestable. But it was a crime, of which no human tribunal could take cognizance, and it lay between God and their consciences. That he avoided entering into the merits of the late decision of the House of Commons, because it was a subject he was convinced the Lords had no right to enquire into or discuss. That the amendment proposed by the noble lord threatened the most pernicious consequences to the nation, as it manifestly violated every form and law of parliament, was a gross attack upon the privileges of the House of Commons, and, instead of promoting that harmony which the King had recommended, must inevitably throw the whole country into a flame. That there never was an instance of the Lords enquiring into the proceedings of the House of Com-

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mons with respect to their own members; much less of their taking upon them to censure such proceedings, or of their advising the crown to take notice of them. If, indeed, it be the noble lord's design to quarrel with the House of Commons, I confess it will have that effect, and immediately. The lower House will undoubtedly assert their privileges, and give you vote for vote. I leave it, therefore, to your lordships, to consider the fatal effects which may arise in such a juncture as the present, either from an open breach between the two Houses of parliament, or between the King and the House of Commons. But, my lords, if I could suppose it were even advisable to promote a disagreement between the two Houses, I would still recommend it to you to take care to be in the right; whenever I am forced into a quarrel, I will always endeavour to have justice on my side. Now, my lords, admitting the House of Commons to have done wrong, will it mend the matter for your lordships to do ten times worse? And that I am clearly convinced would be the case, if your lordships were obliged to declare any opinion of your own, or offer any advice to the crown, on a matter in which, by the constitution of this country, you have no right whatever to interfere. I will go farther, my lords; I will affirm, that such a step would be as ineffectual as it would be irregular. Suppose the King, in consequence of our advice, should dissolve the parliament (for that, I presume, is the true object of the noble lord's Amendment), the next House of Commons that meets, if they know any thing of their own privileges, or the laws of this country, will undoubtedly, on the very first day of the session, take notice of our proceedings, and declare them to be a violation of the rights of the Commons. They must do so, my lords; or they will shamefully betray their constituents and themselves. A noble lord (lord Marchmont) near me, has proposed that we should demand a conference with the other House. It would be a more moderate step, I confess, but equally ineffectual. The Commons would never submit to discuss their privileges with the Lords. They would not come to a conference on the subject; or, if they did come, they would soon break it up with indignation. If, then, the Commons have done wrong, I know of no remedy, but either that the same power should undo the mischief they have done, or that the case should be provided for by an act of the legislature. That, indeed, might be effectual. But whether such a remedy be proper or necessary in the present case, or whether, indeed, it be attainable, considering that the other House must give their consent to it, is not a question now before us. If such a Bill should be proposed, it will be regular and parliamentary, and we may then, with propriety, enter into the legal merits of the decision of the House of Commons. As for the Amendment proposed by the noble lord, I object to it as irregular and unparliamentary. I am persuaded, that it will be attended with very pernicious consequences to this country, and that it cannot possibly produce a single good one.

The Earl of *Chatham*:

My lords; there is one plain maxim, to which I have invariably adhered through life: that in every question, in which my liberty or my property were concerned, I should consult and be determined by the dictates of common sense. I confess, my lords, that I am apt to distrust the refinements of learning, because I have seen the ablest and the most learned men equally liable to deceive themselves, and to mislead others. The condition of human nature would be lamentable indeed, if nothing less than the greatest learning and talents, which fall to the share of so small a number of men, were sufficient to direct our judgment and our conduct. But Providence has taken better care of our happiness, and given us, in the simplicity of common sense, a rule for our direction, by which we shall never be misled. I confess, my lords, I had no other guide in drawing up the Amendment, which I submitted to your consideration; and before I heard the opinion of the noble lord who spoke last, I did not conceive that it was even within the limits of possibility for the greatest human genius, the most subtle understanding, or the acutest wit, so strangely to misrepresent my meaning, and to give it an interpretation so entirely foreign from what I intended to express, and from that sense which the very terms of the Amendment plainly and distinctly carry with them. If there be the smallest foundation for the censure thrown upon me by that noble lord, if, either expressly, or by the most distant implication, I have said or insinuated any part of what the noble lord has charged me with, discard my opinions for ever, discard the motion with contempt.

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My lords, I must beg the indulgence of the House. Neither will my health permit me, nor do I pretend to be qualified to follow that learned lord minutely through the whole of his argument. No man is better acquainted with his abilities and learning, nor has a greater respect for them, than I have. I have had the pleasure of sitting with him in the other House, and always listened to him with attention. I have not now lost a word of what he said, nor did I ever. On the present question I meet him without fear. The evidence which truth carries with it, is superior to all argument; it neither wants the support, nor dreads the opposition of the greatest abilities. If there be a single word in the Amendment to justify the interpretation which the noble lord has been pleased to give it, I am ready to renounce the whole: let it be read, my lords; let it speak for itself. (It was read)—In what instance does it interfere with the privileges of the House of Commons? In what respect does it question their jurisdiction, or suppose an authority in this House to arraign the justice of their sentence? I am sure that every lord who hears me, will bear me witness, that I said not one word touching the merits of the Middlesex election; so far from conveying any opinion upon that matter in the Amendment, I did not even in discourse deliver my own sentiment upon it. I did not say that the House of Commons had done either right or wrong; but, when his Majesty was pleased to recommend it to us to cultivate unanimity amongst ourselves, I thought it the duty of this House, as the great hereditary council of the crown, to state to his Majesty the distracted condition of his dominions, together with the events which had destroyed unanimity among his subjects. But, my lords, I stated those events merely as facts, without the smallest addition either of censure or of opinion. They are facts, my lords, which I am not only convinced are true, but which I know are indisputably true. For example, my lords, will any man deny that discontents prevail in many parts of his Majesty's dominions? or that those discontents arise from the proceedings of the House of Commons touching the declared incapacity of Mr. Wilkes? It is impossible: no man can deny a truth so notorious. Or will any man deny that those proceedings refused, by a resolution of one branch of the legislature only, to the subject his common right? Is it not indisputably true, my lords, that Mr. Wilkes had a common right, and that he lost it no other way but by a resolution of the House of Commons? My lords, I have been tender of misrepresenting the House of Commons: I have consulted their Journals, and have taken the very words of their own resolution. Do they not tell us, in so many words, that Mr. Wilkes, having been expelled, was thereby rendered incapable of serving in that parliament! and is it not their resolution alone, which refuses to the subject his common right? The Amendment says farther, that the electors of Middlesex are deprived of their free choice of a representative. Is this a false fact, my lords? or have I given an unfair representation of it? Will any man presume to affirm that colonel Luttrell is the free choice of the electors of Middlesex? We all know the contrary. We all know that Mr. Wilkes (whom I mention without either praise or censure) was the favourite of the county, and chosen by a very great and acknowledged majority, to represent them in parliament. If the noble lord dislikes the manner in which these facts are stated, I shall think myself happy in being advised by him how to alter it. I am very little anxious about terms, provided the substance be preserved; and these are facts, my lords, which I am sure will always retain their weight and importance, in whatever form of language they are described.

Now, my lords, since I have been forced to enter into the explanation of an amendment, in which nothing less than the genius of penetration could have discovered an obscurity, and having, as I hope, redeemed myself in the opinion of the House, having redeemed my motion from the severe representation given of it by the noble lord, I must a little longer intreat your lordships' indulgence. The constitution of this country has been openly invaded in fact; and I have heard, with horror and astonishment, that very invasion defended on principle. What is this mysterious power, undefined by law, unknown to the subject, which we must not approach without awe, nor speak of without reverence, which no man may question, and to which all men must submit? My lords, I thought the slavish doctrine of passive obedience had long since been exploded: and, when our kings were obliged to confess that their title to the crown, and the rule of their government, had no other foundation than the known laws of the land, I

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never expected to hear a divine right, or a divine infallibility, attributed to any other branch of the legislature. My lords, I beg to be understood, no man respects the House of Commons more than I do, or would contend more strenuously than I would, to preserve to them their just and legal authority. Within the bounds prescribed by the constitution, that authority is necessary to the well-being of the people: beyond that line, every exertion of power is arbitrary, is illegal; it threatens tyranny to the people, and destruction to the state. Power without right is the most odious and detestable object that can be offered to the human imagination: it is not only pernicious to those who are subject to it, but tends to its own destruction. It is what my noble friend (lord Lyttelton) has truly described it, 'Res detestabilis et caduca.' My lords, I acknowledge the just power, and reverence the constitution of the House of Commons. It is for their own sake that I would prevent their assuming a power which the constitution has denied them, lest, by grasping at an authority they have no right to, they should forfeit that which they legally possess. My lords, I affirm that they have betrayed their constituents, and violated the constitution. Under pretence of declaring the law, they have made a law, and united in the same persons the office of legislator and of judge.

I shall endeavour to adhere strictly to the noble lord's doctrine, which is indeed impossible to mistake, so far as my memory will permit me to preserve his expressions. He seems fond of the word 'jurisdiction;' and I confess, with the force and effect which he has given it, it is a word of copious meaning and wonderful extent. If his lordship's doctrine be well founded, we must renounce all those political maxims by which our understandings have hitherto been directed, and even the first elements of learning taught us in our schools when we were school-boys. My lords, we knew that jurisdiction was nothing more than *jus dicere*; we knew that *legem facere* and *legem dicere* were powers clearly distinguished from each other in the nature of things, and wisely separated by the wisdom of the English constitution; but now, it seems, we must adopt a new system of thinking. The House of Commons, we are told, have a supreme jurisdiction; and there is no appeal from their sentence, and that, wherever they are competent judges, their decision must be received and submitted to, as, *ipso facto*, the law of the land. My lords, I am a plain man, and have been brought up in a religious reverence for the original simplicity of the laws of England. By what sophistry they have been perverted, by what artifices they have been involved in obscurity, is not for me to explain; the principles, however, of the English laws, are still sufficiently clear: they are founded in reason, and are the master-piece of the human understanding; but it is in the text that I would look for a direction to my judgment, not in the commentaries of modern professors. The noble lord assures us, that he knows not in what code the law of parliament is to be found; that the House of Commons, when they act as judges, have no law to direct them but their own wisdom; that their decision is law; and if they determine wrong, the subject has no appeal but to Heaven. What then, my lords, are all the generous efforts of our ancestors, are all those glorious contentions, by which they meant to secure to themselves and to transmit to their posterity a known law, a certain rule of living; reduced to this conclusion, that instead of the arbitrary power of a king, we must submit to the arbitrary power of a House of Commons? If this be true, what benefit do we derive from the exchange? Tyranny, my lords, is detestable in every shape; but in none so formidable as when it is assumed and exercised by a number of tyrants. But, my lords, this is not the fact, this is not the constitution; we have a law of parliament, we have a code in which every honest man may find it. We have Magna Charta, we have the Statute Book, and the Bill of Rights.

If a case should arise unknown to these great authorities, we have still that plain English reason left, which is the foundation of all our English jurisprudence. That reason tells us that every judicial court, and every political society, must be vested with those powers and privileges which are necessary for performing the office to which they are appointed. It tells us also, that no court of justice can have a power inconsistent with, or paramount to, the known laws of the land: that the people, when they choose their representatives, never mean to convey to them a power of invading the rights, or trampling on the liberties of those whom they represent. What security would they have for their rights, if once they admitted that a court of judicature might de-

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termine every question that came before it, not by any known, positive law, but by the vague, indeterminate, arbitrary rule, of what the noble lord is pleased to call the wisdom of the court? With respect to the decisions of courts of justice, I am far from denying them their due weight and authority; yet, placing them in the most respectable view, I still consider them, not as law, but as an evidence of the law; and before they can arrive even at that degree of authority, it must appear, that they are founded in and confirmed by reason; that they are supported by precedents taken from good and moderate times; that they do not contradict any positive law; that they are submitted to without reluctance by the people; that they are unquestioned by the legislature (which is equivalent to a tacit confirmation); and what, in my judgment, is by far the most important, that they do not violate the spirit of the constitution. My lords, this is not a vague or loose expression: we all know what the constitution is; we all know, that the first principle of it is, that the subject shall not be governed by the *arbitrium* of any one man, or body of men (less than the whole legislature), but by certain laws, to which he has virtually given his consent, which are open to him to examine, and not beyond his ability to understand. Now, my lords, I affirm and am ready to maintain that the late decision of the House of Commons, on the Middlesex election, is destitute of every one of those properties and conditions, which I hold to be essential to the legality of such a decision. It is not founded in reason; for it carries with it a contradiction, that the representative should perform the office of the constituent body. It is not supported by a single precedent; for the case of sir R. Walpole is but a half precedent, and even that half is imperfect. His incapacity was indeed declared, but his crimes are stated as the ground of the resolution, and his opponent was declared to be not duly elected, even after his incapacity was established. It contradicts Magna Charta and the Bill of Rights, by which it is provided that no subject shall be deprived of his freehold, unless by the judgment of his peers, or the law of the land; and that elections of members to serve in parliament shall be free; and, so far is this decision from being submitted to by the people, that they have taken the strongest measures, and adopted the most positive language to express their discontent. Whether it will be questioned by the legislature, will depend on your lordships' resolution; but that it violates the spirit of the constitution, will, I think, be disputed by no man who has heard this day's debate, and who wishes well to the freedom of his country; yet, if we are to believe the noble lord, this great grievance, this manifest violation of the first principles of the constitution, will not admit of a remedy; is not even capable of redress, unless we appeal at once to Heaven. My lords, I have better hopes of the constitution, and a firmer confidence in the wisdom and constitutional authority of this House. It is to your ancestors, my lords, it is to the English barons that we are indebted for the laws and constitution we possess. Their virtues were rude and uncultivated, but they were great and sincere. Their understandings were as little polished as their manners, but they had hearts to distinguish right from wrong; they had heads to distinguish truth from falsehood; they understood the rights of humanity, and they had spirit to maintain them.

My lords, I think, that history has not done justice to their conduct, when they obtained from their sovereign that great acknowledgment of national rights contained in Magna Charta: they did not confine it to themselves alone, but delivered it as a common blessing to the whole people. They did not say, these are the rights of the great barons, or these are rights of the great prelates:—No, my lords; they said, in the simple Latin of the times, 'nullus liber homo,' and provided as carefully for the meanest subject as for the greatest. These are uncouth words, and sound but poorly in the ears of scholars; neither are they addressed to the criticism of scholars, but to the hearts of free men. These three words, 'nullus liber homo,' have a meaning which interests us all; they deserve to be remembered—they deserve to be inculcated in our minds—they are worth all the classics. Let us not, then, degenerate from the glorious example of our ancestors. Those Iron Barons (for so I may call them when compared with the Silken Barons of modern days), were the guardians of the people; yet their virtues, my lords, were never engaged in a question of such importance as the present. A breach has been made in the constitution—the battlements are dismantled—the citadel is open to the first invader—the walls totter—the constitution is not tenable.—What remains then, but for

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us to stand foremost in the breach, to repair it, or perish in it?

Great pains have been taken to alarm us with the consequences of a difference between the two Houses of Parliament—That the House of Commons will resent our presuming to take notice of their proceedings; that they will resent our daring to advise the crown, and never forgive us for attempting to save the state.—My lords, I am sensible of the importance and difficulty of this great crisis: at a moment, such as this, we are called upon to do our duty, without dreading the resentment of any man. But, if apprehensions of this kind are to affect us, let us consider which we ought to respect most—the representative, or the collective body of the people. My lords, five-hundred gentlemen are not ten millions; and if we must have a contention, let us take care to have the English nation on our side. If this question be given up, the freeholders of England are reduced to a condition baser than the peasantry of Poland. If they desert their own cause, they deserve to be slaves!—My lords, this is not merely the cold opinion of my understanding, but the glowing expression of what I feel. It is my heart that speaks. I know I speak warmly, my lords; but this warmth shall neither betray my argument nor my temper. The kingdom is in a flame. As mediators between the King and people, it is our duty to represent to him the true condition and temper of his subjects. It is a duty, which no particular respects should hinder us from performing; and whenever his Majesty shall demand our advice, it will then be our duty to enquire more minutely into the causes of the present discontents. Whenever that enquiry shall come on, I pledge myself to the House to prove that, since the institution of the House of Commons, not a single precedent can be produced to justify their late proceedings. My noble and learned friend (the Lord Chancellor) has pledged himself to the House, that he will support that assertion.

My lords, the character and circumstances of Mr. Wilkes have been very improperly introduced into this question, not only here, but in that court of judicature where his cause was tried: I mean the House of Commons. With one party he was a patriot of the first magnitude: with the other the vilest incendiary. For my own part, I consider him merely and indifferently as an English subject, possessed of certain rights which the laws have given him, and which the laws alone can take from him. I am neither moved by his private vices, nor by his public merits. In his person, though he were the worst of men, I contend for the safety and security of the best; and, God forbid, my lords, that there should be a power in this country of measuring the civil rights of the subject by his moral character, or by any other rule but the fixed laws of the land! I believe, my lords, I shall not be suspected of any personal partiality to this unhappy man. I am not very conversant in pamphlets or newspapers; but, from what I have heard, and from the little I have read, I may venture to affirm, that I have had my share in the compliments which have come from that quarter; and as for motives of ambition (for I must take to myself a part of the noble duke's insinuation), I believe, my lords, there have been times in which I have had the honour of standing in such favour in the closet, that there must have been something extravagantly unreasonable in my wishes if they might not all have been gratified; after neglecting those opportunities, I am now suspected of coming forward in the decline of life, in the anxious pursuit of wealth and power, which it is impossible for me to enjoy. Be it so; there is one ambition at least which I ever will acknowledge, which I will not renounce but with my life. It is the ambition of delivering to my posterity those rights of freedom which I have received from my ancestors. I am not now pleading the cause of an individual, but of every freeholder in England. In what manner this House may constitutionally interpose in their defence, and what kind of redress this case will require and admit of, is not at present the subject of our consideration. The Amendment, if agreed to, will naturally lead us to such an enquiry. That enquiry may, perhaps, point out the necessity of an act of the legislature, or it may lead us, perhaps, to desire a conference with the other House; which one noble lord affirms is the only parliamentary way of proceeding; and which another noble lord assures us the House of Commons would either not come to, or would break off with indignation. Leaving their lordships to reconcile that matter between themselves, I shall only say that before we have enquired, we cannot be provided with materials, consequently we are not at present prepared for a conference.

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It is possible, my lords, that the enquiry I speak of may lead us to advise his Majesty to dissolve the present parliament; nor have I any doubt of our right to give that advice, if we should think it necessary. His Majesty will then determine whether he will yield to the united petitions of the people of England, or maintain the House of Commons in the exercise of a legislative power, which heretofore abolished the House of Lords, and overturned the monarchy. I willingly acquit the present House of Commons of having actually formed so detestable a design; but they cannot themselves foresee to what excesses they may be carried hereafter; and for my own part, I should be sorry to trust to their future moderation. Unlimited power is apt to corrupt the minds of those who possess it; and this I know, my lords, that where law ends, tyranny begins!

The Amendment was then negatived; after this,

The Marquis of *Rockingham* moved, that the Lords should be summoned to attend next day, as he had a proposal of great national importance to make.

Lord *Pomfret* said, that he should be extremely glad to hear the Marquis's motion at a proper time; but that he had a previous motion to make, which was, that the House should be adjourned till that day se'nnight.

Several remarks were made upon this motion by some lords in the minority.

Earl *Temple* said, that the House well knew for what purpose the ministry wanted an adjournment: it was to settle the disordered state of the administration, which was now shattered in a most miserable manner, and in all likelihood would soon fall to pieces; and particularly to dismiss the virtuous and independent lord who sat on the woolsack, and to supply his place with some obsequious lawyer who would do as he was commanded.

Lord *Shelburne* said nearly the same, and added, that after the dismission of the present worthy chancellor, the seals would go a begging; but he hoped there would not be found in the kingdom a wretch so base and mean spirited, as to accept of them on the conditions on which they must be offered.

The House divided on the original motion, 203 for it, 36 against it.

List of the Minority.

Dukes	Viscount
Richmond	Torrington
Portland	Lords
Manchester	Abergavenny
Northumberland	Byron
Marquis	Craven
Rockingham	Hyde
Earls	Ponsonby
Suffolk	Lyttelton
Stamford	Wycombe
Abingdon	Grosvenor
Scarborough	Milton
Albemarle	Camden
Tankerville	Boyle
Aylesford	Trevor
Effingham	King
Buckinghamshire	Monson
Fitzwilliam	Chedworth
Temple	Fortescue
Radnor	Sondes
Chatham	

The Lords' Address of Thanks.] The Address agreed to was as follows:

"Most gracious Sovereign;

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in parliament assembled, return your Majesty our humble thanks, for your most gracious Speech from the throne.

"We beg leave to assure your Majesty, that it is with the greatest concern we have understood that the distemper among the Horned Cattle has lately broke out in this kingdom; we desire to express our gratitude for your Majesty's paternal care and attention to the welfare of your people, in the steps which it has pleased your Majesty to take, with the advice of your privy council, to check the instant danger of the spreading of the distemper upon the first notice of its appearance; and to assure your Majesty, that we will immediately enter into the most serious consideration of this very important object, and will exert our utmost endeavours in taking such effectual measures as may secure us against so great a calamity.

"We return your Majesty our thanks for the repeated assurances your Majesty has been pleased to give us of your fixed purpose to preserve the peace, maintaining, at the same time, the dignity of your crown, and the interests of your people. We have a dutiful sense of your Majesty's provident attention to prevent the necessity of involving your subjects in fresh difficulties after the great burthens to which they so cheerfully submitted, in order to bring the late war to a happy

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conclusion; and we have great satisfaction in finding that the assurances given to your Majesty by the other great powers of Europe, afford reason to believe that, without prejudice either to the honour of your crown, the rights of your people, or the general interests of Europe, it may still be in your Majesty's power to continue to your subjects the farther enjoyments of the blessings of peace.

"We assure your Majesty, that we will take into our most serious consideration the state of your government in America: we beg leave to express our utmost concern that the success of your Majesty's endeavours to bring back your subjects there to a due sense of lawful authority, have not answered your Majesty's expectations. We shall be ready to give every assistance in our power for rendering effectual these your Majesty's gracious intentions, and for discountenancing those unwarrantable measures practised in some of your Majesty's colonies, which appear calculated to destroy the commercial connection between them and the mother country.

"We think it our duty to assure your Majesty, that we are thoroughly sensible that the welfare of your people has ever been the object of your wishes, and the rule of all your actions; and that we will endeavour to deserve the favourable opinion which your Majesty is graciously pleased to express of our being governed by the same principles: that we have a perfect reliance on your Majesty's promised support in such measures, as may serve to promote those ends; that as it is peculiarly incumbent upon us, at present, to avoid heats and animosities among ourselves, so we shall endeavour to cultivate that harmony which is so necessary to the common cause, and which alone can render our deliberations respectable and effectual; being fully persuaded that such a conduct, on our part, must greatly contribute to the happiness and prosperity of this country, and to establish a due sense of the very distinguished advantages of our happy constitution, as well as a firm attachment to it, and must justify, both at home and abroad, your Majesty's gracious confidence in the wisdom of your parliament, and in their zeal for the true interests of your people."

The King's Answer.] His Majesty returned this Answer:

"My Lords;

"I thank you for this affectionate and loyal Address: your resolution to enter immediately into the consideration of such measures as may best secure us against the spreading of the distemper among the horned cattle, affords me great satisfaction.

"I have strong reliance on your determination to give me every assistance in your power, to support my government in America.

"Your assurances of duty and loyalty towards me, and your resolution to cultivate harmony among yourselves, give me very sincere pleasure."

*Debate in the Commons on the Address of Thanks**.] The Commons being returned to their House,

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* From the Gentleman's Magazine.

The following Abstract of this Debate is taken from the London Magazine for January 1770:

Proceedings of the House of Commons, January 9, 1770, in a Letter from a Correspondent:

Sir; you know the King's Speech takes no notice of the Petitions. You likewise know, that when an Address was proposed, in answer to the Speech, a motion was made for the following Amendment to it, viz. "That the House should assure his Majesty they would proceed to enquire into the causes of the discontents in his Majesty's dominions." I herewith send you an Abstract of the Debates upon this motion. I cannot pretend to give you all that was said upon it, for I was not present when it was made; but from what I could learn, not a great deal had been said before I got in.

Lord *Clare* was then speaking; from what I heard of his speech, he admitted that there were discontents.

Mr. *Cornwall* was the next that spoke, in appearance, very independently, and much in the sentiments, if not quite in the stile, of the great and patriotic members who composed that glorious and ever memorable parliament of 1640. He said there were grievances, and very great ones; that he knew there were great discontents in the county which he lived in; and that, in his opinion, a change of men would not satisfy the people, but that there must be something more done.

The *Attorney General* spoke next. His speech tended to shew, that we could not properly take notice of any discontents, there being nothing before us to warrant such a supposal, (this, I thought, was speaking much like a lawyer, but not like a representative), that in the county he lived in, he never heard of any grievances, and did not think there was

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Sir *George Osborne* moved, "That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House, for his most gracious Speech from the throne.

"To express to his Majesty our serious concern, that, notwithstanding every precaution which could be used for preventing the communication of the infectious disorder among the Horned Cattle from foreign parts, that most alarming distemper appears to have again broken out in

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any body in it, who believed there were any very extraordinary; that, for his own part, he had heard of petitions being in some places unduly obtained, but that he declined, for the present, giving any opinion about their legality, or what might be the consequence of them, seeing so many persons of distinction were concerned in them; and concluded against the motion.

I think *George Onslow* was the next. He said the petitions were no proof of any general discontent; and that in one county, that which he had the honour to represent, he knew the majority of the freeholders were not for the measure; that the principal gentlemen in the county were not concerned in it; that very few of the justices of peace had signed the petition, and very few of the clergy.

He was answered by sir *Anthony Abdy*, who observed, that though he was a friend and well wisher to the gentleman who spoke last, he must say, by far the greatest part of the gentlemen of great property were at the meeting, and signed the petition; that as for himself, he could not attend the meeting, being ill at the time, but he did sign it; that he never would deny himself being an active man in it; that as to the honourable gentleman, and as to the freeholders not knowing what they were about, as Mr. Onslow had insinuated, he would very readily admit they did not, when they chose him for their representative.

Col. *Onslow*, cousin to George, spoke next. What he said is not worth recollection.

Next to him was Mr. *Thomas de Grey*, brother to the Attorney General. He said he had the honour to serve for a great county, (Norfolk) but no petition had been resolved upon by the gentlemen, nor any great grievance complained of. Speaking of the Westminster petitioners, he called them 'base-born.' This gave offence, and

Mr. Serjeant *Glynn* got up, and said, the hon. gentleman had broke through order, and was going to make a motion; but upon Mr. De Grey's retracting, and confessing his error, that he was not so correct in his language as the learned serjeant—the motion was waved.

De Grey's having asserted there was no grievance complained of in his county, occasioned a great many gentlemen to get up, and give an account of what had passed in their respective counties: amongst those was

Sir *G. Saville*. He attacked the Attorney General, upon what he had objected to the Amendment, viz. 'Nothing before the House;' that he never understood that we could not take notice of any thing that did not come before us by way of petition; were they not to use their own reason; were they to shut their eyes and ears? that he looked upon us as the grand inquest of the nation; related his conduct with respect to the Yorkshire petition; that he did not originally move it, but was sent to by a number of gentlemen at the races, and gave an account of the great caution he had used in that matter; however, that he was so far from dreading any thing that the Attorney General had thrown out, that he did avow his having declared his opinion, that the Resolution which adjudged Luttrell duly elected, was illegal, and that he was still of the same opinion; that he did by no means approve of a crown officer throwing out his opinion *in terrorem* at us: sir A. Abdy had said the same. Those who had signed the petition avowed the act, and dared their opponents to punish them.

Rigby spoke next. His aim was, by wit and ridicule, to lessen the weight of the petitions, and with this view, he proceeded to relate what he had heard of the landlord of the inn at Chelmsford, with respect to the Essex petitioners, to shew that there were few or no principal gentlemen among them.

Lord John Cavendish spoke next, then Mr. Sheriff Townsend, and Mr. Aubrey all to the same purpose.

Colonel *Barré* rose. He urged the public discontents, and brought several instances of the ministers imprudent conduct, mentioned the matter of the colonies, and particularly shewed the absurd conduct of one of the governors they had sent over (Lord Botetourt.) He insisted on the minister's having occasioned discontents at home, and having sacrificed, as he had too much reason to believe, the honour of the British flag. He desired to know, whether orders had not been issued from some quarter, that we should not insist on the honours due to our flag; and he called upon sir Edward Hawke to say, whether all that was fair had been done.

Sir Edward disclaimed knowing of any orders to that purpose.

Lord *North* made but a poor defence of the ministry, and used some arguments, that, when they came to be examined into, turned very strongly against him. His chief arguments against there being any appearance of discontent were, that the majority of the counties had not petitioned; that, in those which had petitioned, very few gentlemen of great property, very few justices of the peace, and very few clergymen had signed the petitions. He particularly insisted upon the county of Middlesex. He averred that not one justice of peace had signed. He asserted the same nearly with respect to Westminster. He recited the proceed-

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some parts of the kingdom; and at the same time to declare, that we are truly sensible of his Majesty's paternal care and vigilance for the security of his people, in having given the earliest directions for every measure to be pursued, that might be most likely to give an immediate check to the first spreading of the infection; and that we will not fail to take this most important matter into our immediate consideration, and to make such provisions as shall appear best calculated to carry into

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ings of that House in the last session, with regard to the expulsion of Mr. Wilkes; though he entered not into the defence of the incapacitating resolution, to shew, by any authorities in law, its legality, (so what he here said was idle, every body knowing the facts) but avowed his former opinion, insisting on our authority to determine all election matters, and that our determination was final.

I think the patriotic Serjeant [Glynn] spoke next. He shewed the necessity of the Amendment; that the nation expected redress; and that for us to refuse any enquiry into those discontents, was to drive the people to despair; that, be the discontents well or ill founded, an enquiry ought to be made, and since they had confessed there were discontents, no reason could be given why the causes of them should not be enquired into. With respect to the justices of the peace, he believed those of Middlesex were not considered in so honourable a light, that if he was speaking of a gentleman of that county, it would not be thought an additional compliment to say of him, that he was in the commission of the peace.

All who spoke on this side of the question, were exceeding bold and spirited, and did, as it were, set at defiance the power of administration.

The military Marquis [of Granby] spoke next. He expressed a kind of sorrow for his past conduct. He said he was dissatisfied with the voice he had given upon a former question; that there were discontents, and he wished the causes of them to be enquired into.

General *Conway* got up next, and I believe the minority thought he was going to make the same declaration, and indeed he set out as if he meant to do so; but he so qualified his expressions, that for some time no person could tell for which side he would declare. He said there were discontents; that they ought to be enquired into, but that he should give his vote against the Amendment, because it was no part of the Speech. Besides, such a general mention of complaints, was to adopt the complaint made against us, and the prayer for our dissolution, than which there could be nothing more absurd. With respect to the Resolution, he had been, and still was of opinion that it was legal, but that he would not set up his opinion for law.

Sir *Fletcher Norton* began with observing upon the question, (viz. alteration) that he could not see how we could alter our judgment; that he looked upon us as a court, as in that respect, whose determination was final, there being no appeal from our decision, they being the dernier resort in election matters; that he did not speak this with any view to prejudice the question; but that when it came on, it might be considered, that there was no precedent of our altering our judgment; that if they argued from analogy, there was nothing like it in the constitution; that the judgments of the upper House were final; that he had thought, and still did, the proceeding legal, though he was ready to be convinced by the opinion of the House, but that, if a reversal of that judgment should be thought necessary, it was his humble opinion, an act would be the most legal and constitutional way of setting the matter right.

Mr. *Edmund Burke* began with reprehending sir Fletcher for giving his private opinion in a matter not now in debate, at the same time not saying one syllable to the question, or setting the matter of the petitions right; that it was such an answer, to what had been asserted of a general discontent, to say that the majority of the counties had not petitioned, as he had never heard. What, is it not a bad government, unless all the counties of England represent it as such? Is there no proof of the majority of freeholders being discontented, unless a majority of the principal gentlemen in the petitioning counties, unless the justices of the peace sign the petition? Are the farmers of no account? The gentlemen have many ways of securing to themselves an interest in the government; pensions, places, being admitted to the levees of great men; but what have the small freeholders? They have no weight, no share in the government, if they are to be excluded the privilege of electing representatives, and complaining of grievances in the way they have done. He here made a most pathetic allusion to the parable of the poor man's lamb, and said this was the freeholders' lamb. But what an argument is it to say that the petitions do not express any general discontent, because the principal gentlemen do not sign them? The gentlemen, it is well known, are much influenced; but the freeholders are above all menace, all fear, all influence. The justices of peace do not sign? The justices of peace are under the immediate appointment of the crown; and if it were that they did not sign, I should hope it would be one of the last arguments against the petitions, if ever it can be any. Good God! Sir, is there no discontent, if all the counties do not petition? What would they have that government to be, where every member of the community is to complain against it? I never heard of such an argument as this before, and hope it will now be for the last time. There never was any thing like present complaint; not one opposite petition or address from the time the first petition

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effectual and complete execution his Majesty's salutary intentions; and thereby, as far as by human means can be accomplished, to guard against the danger of so great a calamity becoming general.

"To assure his Majesty, that his faithful Commons have too just a sense of the blessings of peace, and feel, with his Majesty, too tender a concern for the ease of their fellow subjects, not to rejoice at the prospect which the assurances given by the other great powers of Europe afford

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was presented. Look into the history of former times, into Charles the second's times, into other periods, when petitions were presented. Were there not petitions against petitions? The Whigs petitioning one thing, the Tories against it; two parties always opposing one another; but there never was any thing like the present. Another thing they urge against petitions is, that where the Middlesex petition stated many grievances, the other counties rejected them as groundless. What! because they do not mention them, but confine themselves to the dragon, the huge grievance, is that an evidence that they think they do not exist? I was one of those who advised the not mentioning them, but confining the complaints to the violation of election; not that I thought, he (meaning lord North) would represent, that they did not exist, for there are a great many other very great grievances, but it alone was sufficient to urge a dissolution; I say, Sir, it alone was sufficient; and we ought all, Sir, to fall down and prostrate ourselves at his Majesty's feet, and implore a dissolution, for what we have been guilty of. It is our bounden duty to do it. Some of the best, the only patriotic members in the Long Parliament of Charles 2, the Pension Parliament, as it was called, went as far as this. I am not at liberty now to go into an argument upon the incapacitating measure. I will only say, that all the sophistry of the greatest lawyers has not been able to convince one man of its legality, nor even to raise a doubt about it.—He here said something as to the argument that had been alleged of the clergy not having signed, observing, that church preferments did always most powerfully operate with them. Notwithstanding, he said he knew some that had signed; and as to what had been said, that the freeholders did not know, did not understand, what they were about; he knew the epithets 'base born,' and 'scum of the earth,' had been applied to them, and now it was contended, the opinion of the gentlemen was only to be regarded. But why are not freeholders gentlemen? What is there that makes the freeholders base born, if the gentlemen, as they are called, are not? I know not, our constitution knows not. A freeholder is as good a gentleman as any in the kingdom. I am ashamed of the arguments that have been used, to shew that there are no discontents, or just grounds of complaint. They are such, that if they were good, no discontent, no ground of complaint could ever exist. But the administration themselves do not agree. For while some in high offices contend there are none, others in as high offices, frankly admit there are, and that an enquiry ought to be made into the causes of them. I must detain you, Sir, with a few observations upon the minister's speech. He has not thought fit to say a syllable of those discontents.

He proceeded now to state the affairs of America. He observed, that they had brought the affairs of that country into such a situation, into such difficulty, that wisdom itself could not devise the means of setting them right; that they had reversed every principle of prudent conduct.

In this part he particularly exerted himself. It is impossible to recollect even the heads of all the variety of proofs he brought to establish what he had advanced, and those I do recollect lose all their beauty and energy, by the bad representation here given of them. Every thing he asserted he demonstrated by most irrefragable proofs. Mr. Burke said, that the ministry having plunged the affairs of America into the greatest difficulties, they should now come to ask parliament to get them out; that they found America in the most perfect peace and harmony; that they were the first and only cause of destroying that harmony; that they laid a duty or tax upon America, not for the purpose of raising a revenue, for they declared at the time, they knew it would not defray the officers charges (a tax, with respect to us, confessedly the most impolitic, being a duty on our own exports) but with the avowed design of asserting the right to raise a revenue; that he would not mention the Stamp Act, but what sort of an act in the name of wonder was this! They begin with treating America harshly; they afterwards speak of her as disaffected; they at last drive her to despair. They withhold all appearances of favour; no dawn of hope is afforded her. They send over a military force; they recal that force, and send over a military force again. They menace and use compulsion first, and then use softening measures. They endeavour to win the Americans into a compliance, after having failed in compelling them. Was there ever any conduct like this! any thing so absurd! to menace and use compulsive measures first, and this failing to ask, to intreat, to beg a compliance. What consistency was this! They reverse the rule of all wise and prudent governments, which try gentle measures first, and if those fail, have recourse to compulsive ones. What opinion must the Americans have of us? Must they not think we are a set of the most inconsistent, contemptible wretches upon earth? I do not mean to justify all they have done: however, in most things they have reasoned better on the constitution than us. The minister's speech

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to his Majesty, that the present disturbances will not extend to any part, where the security, honour, or interest of this nation may make it necessary for his Majesty to become a party; that we have the fullest confidence that his Majesty will never be unmindful of those important objects; and that we observe with great satisfaction his Majesty's wise attention to

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of last year had a charge against them, at least one colony, as being rebellious; and I remember very well, at the opening of the session, we were desired to concur, and be unanimous in our resolves on the subject of America. Did any body ever hold a contrary conduct? In the middle of the session the ministry pass several resolutions, condemning the proceedings of their assemblies, accusing them of treason, by the vote which resolved, that the act of king Henry 8, extended to them. That resolution must be understood as accusing them of treason; for otherwise, why resolve, that an act of parliament made against treason extended to them? But, after this horrid accusation, was any body ever brought over to be tried for treason? and yet they are accused of it. But what do the colonies do upon this? Why, the colony of Virginia, in which I think they shew better reasoning upon the constitution than we do, came to a resolution, in which they plainly question the legality of our resolution. But what governor do they send to this colony? (and in those critical situations strict regard ought to be paid to the qualifications of persons sent to discharge so important a duty) a man is sent no way qualified to discharge that high trust; (he then read the speeches that passed between the governor and the governed, in which are the most ridiculous absurdities.)

Then he went into another part of the Speech. They have told Europe that we are afraid of going to war, and they have given one of the strongest reasons in the world, the want of supplies. I am afraid of its truth; but that is not always to be told. What, must this country, that used to give law to Europe? &c. &c. —But I must not omit mentioning some of his bold and spirited assertions. Describing the miseries of his country, its dangers from without, its discontents within, addressing himself to the Speaker more particularly, You have heard, said he, the very existence of this House questioned, its authority contemned; and can you sit still, unmoved, and hear this? No! the very chair you sit in shakes; it is without a foundation; do you not feel it stir? do you not feel it rub against you? You have heard to day, Sir, what cannot be heard among us, the representative of a very great county, (looking to sir George Saville) declare, that a resolution, a judgment of ours, was illegal; that he told his constitutents so. You heard him patiently. He ought to be sent to the Tower! Many the most respectable present, speaking for their constituents, have said the same thing. They ought to be sent to the same place. I ought to be sent. I have said this day, what in the ordinary course of things, could not pass unpunished. But we are not, in the ordinary course of a first day's meeting, to echo back the words of the minister. We must not be in the ordinary course. We must not be like the horned cattle in the hold, while the ship of the state goes smoothly down the still stream of the river.

It had been urged by some of the ministerial party, that every undue influence, every art had been practised, to bring about the petitions, by writing, private meetings, &c. In answer, he said, what arts! was writing and printing undue influence? and are we not at liberty to tell our constituents what we think upon what we do? I never heard before that writing and printing were undue influence. What art had been used! nothing but what was honest, that braved the day; an art that I hope will ever be used. If any thing unconstitutional, if any thing illegal has been done, punish the offenders. If the petitions are groundless, punish the promoters of those petitions. Nothing of this sort has been attempted. The art, believe me, Sir, is a very honest one. You hear nobody recede, nobody disclaim the art. It was an art to preserve the constitution, the form of government. Do not think I say it is the best government: no, by no means; it may be in theory: but let us, at least, preserve the forms of a constitution. The opinion of the freeholders has been ridiculed and represented as the effect of ignorance. The opinion of the freeholders, of the yeomen of this country, and their sons, is not to be so treated. They have good sense at least, if they have not all the ingenuity, all the sophistry of some gentlemen. They are an honest, a most respectable body. We have heard a great deal of the 'principal gentlemen.' It would be well to remember, Sir, that the people once struggled for their liberties, and they had the good luck to get the better: and what became of the gentlemen? why, they were made the servants of mechanics and persons in business. Let not so great a stress be laid upon the 'principal gentlemen.' We are told that there are no general discontents; that the majority are very well contented. Why, Sir, lord Clarendon, when he is giving an account of Charles the First's execution, before the gates of the palace, tells you the generality of his people were for him. But none, it seems, but "base born" freeholders, and the "scum of the earth," are now discontented.

Such, Mr. Editor, were the principal arguments on the proposed Amendment; to the good sense of your readers I now submit them, only observing, that the Amendment was rejected by a very great majority.—I am, Sir, your constant reader, ANGLICANUS.

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the general interests of Europe, in his determination not to acknowledge any claims of any of the other powers of Europe, contrary to the limitations of the late treaties of peace.

"To express our sincere concern, that his Majesty's endeavours to bring back his subjects in America to a just sense of their duty have hitherto proved so little successful; and to assure his Majesty, that, as the state of his Majesty's government there does undoubtedly well deserve the serious attention of parliament, no endeavours shall be wanting on our part to make effectual provisions against the unwarrantable measures carried on in some of his Majesty's colonies, which are so irreconcilable to every principle of commercial subserviency to the interest of the mother country that ought to prevail in colonies, and which, by attempting to subject the highest legal authority to the controul of individuals, tend to subvert the foundation of all government.

"To assure his Majesty, that we will, with the utmost cheerfulness and dispatch, grant the necessary supplies for the service of the current year.

"To acknowledge, with the warmest gratitude, that the welfare of these kingdoms has been the constant object of his Majesty's wishes, and the unvaried rule of his actions.

"To offer to his Majesty our most dutiful thanks, for the favourable opinion which his Majesty is pleased to entertain of the conduct of his parliament; and to assure his Majesty, that we will steadily persevere in such principles as are most agreeable to the true spirit of this free constitution, and invariably pursue such measures as are most conducive to the real happiness of the people.

"To declare, that, earnestly desirous of justifying to all the world his Majesty's gracious declaration of his confidence in us, we will make it our study to avoid all heats and animosities amongst ourselves, which, we are truly sensible, is at this time peculiarly necessary, to give weight to our deliberations, to establish the prosperity, and to maintain in its true lustre the reputation, of this country.

"And that, while we on our part are faithfully executing the trust reposed in us, by endeavouring to the utmost of our power to promote these good ends, we trust that all who live under this happy constitution will be convinced how indispensably it is their duty to pay that obedience to the laws, and just reverence to lawful authority, by which alone their own rights can be preserved, and the distinguished blessings which they enjoy above all other nations be rendered secure and permanent."

Mr. *Ralph Payne* said:

Sir; it is with pleasure that I rise up on this occasion, to remark a new instance of that paternal care in our most gracious Sovereign, which distinguishes the father of his people. Objects which in themselves are the most important, do not always strike the mind with the greatest force. The encroachments of princes upon the dominions of each other, the deposition of one sovereign, and the establishment of another, fill the minds of those with solicitude and perturbation, to whom the influence of such events can never reach, or to whom they would produce much less evil than the wars that are undertaken to repress or prevent them: men clamour for war, and are impatient for the march of armies, and the sailing of fleets, who never reflect, that in peace life is preserved, and that in war it is lost; that in peace the public expence is small, in war it is great, and that every individual will find it more difficult to subsist, in proportion as he pays subsidies for the destruction of others. But the disease of a beast, and the distress of a farmer, are objects which strike only those who see important events in small causes; a distemper among cattle, is a calamity, which, if it prevails, will enter every door; it will spread like the shadows of the night, a darkness, which like that of Egypt will be felt. It is now ravaging a neighbouring state, and that at present a small circle circumscribes it at home, is owing to the vigilance of his Majesty, whose eye is always watching over us for good. In the measures which have been taken for that purpose, it was necessary to assume a power which the laws of this country, made for general purposes, have not given, and I am sure that this House will readily and joyfully concur in every measure that shall be thought requisite for the indemnification of those whom the unavoidable imperfection of the best constitution in the world has left liable to punishment, for their readiness to render a most important service to the public.

But his Majesty has not been less attentive to preserve peace, than to prevent scarcity; he has with great wisdom concerted

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measures with the powers in alliance with Great Britain, to prevent the calamities of war, which include all others; he has not, indeed, succeeded so far as to prevent war, but he has prevented its miseries from spreading into this country, either immediately, or by consequence. It is surely to be regretted, that those who are under the government of such a monarch, are not disposed to concur in his measures, that they are unwilling to receive the blessings which he is solicitous to bestow, and while he is administering government with benevolence and wisdom, oppose it with all the vehemence and obstinacy that folly and tyranny only could justify. It is to be regretted, that no measures have yet been effectual, to bring our American colonies to a sense of their interest and their duty; and I hope and trust that this House will zealously and unanimously co-operate with his Majesty in every measure that may tend to secure their dependence, and prevent the evils which cannot but arise from a contumacious refusal of obedience to the laws of the state. I shall, therefore, second the motion.

Mr. Dowdeswell desired that the Speech might again be read, which being done,

Mr. *Dowdeswell* rose and said:

Sir; I now find myself unhappily convinced of a fact, which it was no dishonour to disbelieve: it was whispered, as I imagined, by those who wished to promote discontent by falshood and calumny, that no notice would be taken of the Petitions of the people; I disbelieved these whispers for more reasons than one, but principally because I believed there could be no minister so daring as to treat general complaints with contempt. I could easily conceive that the disposition might not be wanting, but I thought that insolence and insult would have been overborne by fear. I find, however, that we have at present such a minister in this country, as I supposed could not exist in human nature. While the whole British empire echoes with complaints of violated rights, the minister entertains us with a tedious account of a distemper among cows: gentlemen may endeavour to swell this into importance by tropes and metaphors, if they please, but I believe there are few here who will be the dupes of such artifice. This formidable distemper, which we are told is likely to overwhelm us with a deluge of distress, and leave us to perish with hunger, is nothing more than an invention of lord Northington's tenants to procure a quick sale for their cattle. To this invention, a rumour of a distemper among the horned cattle in Holland has given countenance, and possibly rise: it is not an object of importance, it is not an object that should have intercepted the consideration of other evils, which are too notorious to be doubted, and too important to be slighted. The many instances of flagrant violations of the people's rights, by wicked, arbitrary, and oppressive ministers, countenanced and supported by the corruption and venality of those who ought to oppose such measures, are not to be concealed by the exhibition of imaginary terrors. The Petitions from every corner of the kingdom, are full of grievances that call loudly for the exertion of public virtue, to strike at the root of that corruption, by which the state is reduced to the most deplorable condition both at home and abroad. I therefore move, that the Address which has been proposed, be amended, by the addition of a few words, to acquaint his Majesty of the necessity there is, "of immediately inquiring into the "Causes of the unhappy Discontents "which at present prevail in every part "of his Majesty's Dominions."

Mr. *Beckford:*

I rise up, Sir, to support the sentiments of my honourable and worthy friend who has proposed the Amendment. The silence of the minister, with respect to the complaints of the people, is an insult as gross and as cruel as oppression and insolence ever offered. It is aggravated, by substituting something in the stead of the evil, against which they have petitioned, that has no real existence; they have given us a windmill for a giant; they have endeavoured to conceal fire by smoke: the distemper among the cattle, which has been made the subject of a tedious harangue, exists no where; or if it exists any where, it is in obscurity: and what can we think, Sir, of such distempers? What is there lurking in the dark, but works of darkness, which must disappear in the light. The petitions of the people are not of this kind; they were not produced in the dark, or in a corner; they are the work of noon day, and were fabricated, as it were upon the house top; these, however, are totally neglected, and that other is made the substance of a speech; it has indeed excluded every thing that could pretend to importance in

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any shape: no notice, Sir, is taken of an impending war; can the minister hope to conceal what must so soon be manifest in its effects; does he hope, like the stag, that by running the head of this war into a bush, he shall conceal the body; does he think that because the desertion of Corsica, and the addition of that island to the power of France, has made a war with that powerful and insidious neighbour, more dangerous to him, as well as to us, and therefore rendered it convenient for him not to see it, that therefore it will be the less seen by others. France is now arming in all her ports, by land and sea, and though she was beaten during the last war, by a series of success on our part, almost without example, she is, notwithstanding these defeats, preparing vigorously for farther conquests. Spain is also arming with the same diligence, and there are already troops in America, that menace our colonies.

These are objects, Sir, that require attention, and yet no attention is paid to them; the minister would, indeed, mention them with an ill grace, who had taken no measures which they pointed out; but though one neglect and one fault naturally produce others, the second is no excuse for the first. England is indeed the only power in Europe which is not in a condition to go to war; but that is no reason why circumstances should be concealed which make it probable that other nations should go to war with her. Perhaps, Sir, the minister has arts to practise, by which he hopes to avoid a war, that are not fit for our ear; he may be, and probably is, as servile and submissive abroad, as he is tyrannical and oppressive at home: but, Sir, servility and submission will not answer his purpose, they may encrease our dishonour, but cannot secure us from danger; if France feels her superiority, a superiority arising from the supineness and ignorance of our ministers, can it be supposed that she will forego any advantage which this enables her to procure, in consequence of submission on our part, which, though they flatter her, she must despise.

Sir, I am for no such servile, slavish, tame, temporising measures: I am for striking the first blow, whether we are in a condition or not; and, I have many reasons, of which, however, I shall mention but one; every body, Sir, in these kingdoms, has, among other grievances, suffered by the scarcity of silver; and, Sir, I insist that at this time, a Spanish war is the only means by which this evil can be remedied. My zeal, Sir, may perhaps have carried me away from the particular point in view, but the expediency of the Amendment proposed by the hon. gentleman to the Address is too manifest to need any further enforcement or defence.

Sir *Edward Hawke:*

As to what the hon. gentleman has just thrown out, relative to the probability of a war with France, and the armaments carrying on in that kingdom, I shall only observe, that I was in France last summer, and that I know certainly by the observations I made, that they are not in a condition to go to war.

Lord *Clare:*

Sir; I think I can speak as satisfactorily to the state of matters at home, with respect to discontent, as the hon. gentleman has just done to the preparations for war abroad. I am just returned from a tour through most parts of this kingdom, and I heard of no complants, no grievances, but from news-papers and grievance-mongers; I believe some of the people who feel no grievances, have been persuaded that they are aggrieved, and I believe others have been prevailed upon to say that they are aggrieved, even without being persuaded that they are so. The laws, indeed, are a grievance to some, and some may have become converts to patriotism, upon a notion that a petition would pull down the minister, that if the minister was pulled down, there would be neither tythe, turnpike, nor taxes. Among other places, Sir, I was at an inn in E—, where a meeting had been advertised, and upon enquiry of the landlord, he told me, that some country looking men came first, that they were soon after joined by some strangers, who told them that this kingdom was at the mercy of a set of tyrannical, treacherous, and blood-thirsty men, who had abused the King's confidence, robbed freeholders of their right of election, from which well known advantages were derived, ordered Scots soldiers to massacre poor innocent people whowere selling oranges and gingerbread in St. George's-fields, and confined a man in prison for attempting to reduce the price of porter to three pence a quart; that not one of the neighbouring gentlemen were present, that the countrymen thinking

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there could be no harm in taking a chance at least for putting an end to these practices, if such there were, signed the paper, and went home to their families with no more knowledge of the merits of the Petition, its origin, or consequence, than the horse they rode on. As to the great grievance, which like Aaron's serpent, seems now to have swallowed up all the rest, the vote of incapacity, I declare as a man of honour, that I think it perfectly consonant to the known customs and law of parliament, and consequently to the constitution of my country; as a man of honour I will maintain it, and I hope that this House, as a House of honour, will never depart from it. It was a vote passed by this House in its judicial capacity, it was passed upon the most mature deliberation, it was weighed, debated, and determined, with a solemnity proportioned to its importance, and after longer consideration than had been allowed to any former question; and now to declare that the House will take this very vote into consideration as a grievance, to insinuate that as a grievance it should have been noticed in the Speech from the throne, is to impeach our own prudence and integrity, to reproach our most gracious sovereign for placing a confidence in us of which we are unworthy, to countenance a turbulent and disappointed faction, to destroy that power which has hitherto been the bulwark of our liberties, by dividing it against itself, to put an end to our independence, and load our memory with disgrace. For these reasons, Sir, I am against the Amendment.

Mr. *Cornewall:*

Sir, it is one of the aphorisms of ancient wisdom, that all things happen alike to all men; but, Sir, it has not happened to me as to the hon. gentleman who has told us, that in a summer tour through this kingdom, he heard neither of grievance nor of discontent: I, Sir, have lately been in several counties, and heard of both; of distempers among horned cattle indeed I heard nothing; and being desirous to find propriety in the measures of those by whom public affairs are directed, I have thought it possible that part of the Speech may be an allegory: change only the words 'distemper' into 'discontent,' and 'horned cattle' into 'livery men of London;' its 'first appearance,' into 'Middlesex election;' stoping its progress, 'the massacre in St. George's fields,' and the whole will appear an intended burlesque upon the people's Petitions. In the same figurative language we may express our concern at the popular discontent which had been intimated to us by a disease among the cattle, profess our readiness to take the matter into our consideration, and to the utmost of our power, provide against the danger of so great a calamity becoming general.

Nor can I see, Sir, any impropriety in expressing our concern at the popular discontents taken in a literal sense. That the having once done wrong, is a reason for never afterwards doing right, is certainly a strange doctrine, a paradox that no wit or sophistry can defend. The question before us is simply this, whether the vote of disqualification was right or wrong; if right, there is no need of arguments to prove that it should not be rescinded, if wrong it seems very easy to prove the contrary. If, upon better information, a vote which when it was passed was thought right, appears to have been wrong, it is surely more honourable to ourselves, setting the effects of the measure out of the question, to rescind than pertinaciously to abide by it. Besides, Sir, in an assembly of the representatives of the people, regard is to be paid to the voice of the people, even supposing it to be directed by prejudice, if it be such prejudice as long establishment has made irradicable. This House, Sir, can never be dishonoured, by leaving the people to their free choice, but indelible dishonour will be intailed upon representatives, by acting counter to the known will of their constituents, which must certainly be a breach of trust; and except a breach of trust can be supposed constitutional, it must, by necessary consequence, be unconstitutional. I must, therefore, Sir, determine for the motion, if for no other reason, that his Majesty may know the complaints of the people to be real and general, and not the production of art or faction, the contrivance of persons who have been stiled grievance-mongers, to answer private and seditious purposes.

Mr. Attorney General *De Grey:*

Sir; I am sorry to see in this House any attempt to substitute ridicule for argument; and I am more sorry to hear arguments which require no confutation, but the mere change of equivocal for definite terms, and the substitution of essentials for accidents and circumstances,

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obtruded upon us in their stead. I will not charge any gentleman with advancing arguments that he knows to be thus fallacious. But I must stop a moment, to detect the sophistry of representing the vigilance that has been used to prevent the spreading of a disease among cattle, as a neglect of mankind. It is difficult to conceive what measure could so extensively avert misery, and procure comfort and conveniency to mankind, as that which tends immediately to prevent a scarcity of food. To neglect any measure that becomes requisite to secure necessaries to the industrious artificer, at such a price as he can pay, is to propagate slavery, which those would do well to consider, who, while they are reproaching government for its vigilance in this particular, are under the mask of zeal for liberty, clamourously demanding that a notorious delinquent, a man in jail for sedition and impiety, should be appointed one of the guardians and counsellors of the church and state. Of the contrivance to support this demand by Petitions for the dissolution of parliament, I shall not at present deliver my opinion. I shall not declare whether I think those who signed them culpable or punishable; but I shall most freely declare against the proposed Amendment, as implying what is at once illegal and absurd. This Amendment is, "to assure his Majesty, that we will immediately enquire into the cause of the discontents that prevail in every part of his majesty's dominions." But what are the evidences of these prevailing discontents? Why, Sir, gentlemen have been very explicit upon that head; they have told us, that the evidences of these discontents are the Petitions; and of what do these Petitions complain? Why, they complain of a judicial vote of this House, relative to the Middlesex election: the insertion of the Amendment is nothing more or less than in effect, to assure his Majesty, that we have been the cause of prevailing discontents, by an abuse of our power; to insinuate that we ought to have been reproached for it by the minister, who has criminally neglected it, and to engage to impeach ourselves, and undo what we have been doing. But, Sir, the measure implied in this Amendment, is contrary to law as well as common sense; to rescind a judicial vote of this House, is contrary to the law of parliament, and to the established practice of every other court in the kingdom: the determinations of inferior courts are, indeed, liable to the cognizance of superior courts, but this House knows no superior court in acts respecting its own members. No court can determine upon the same fact twice, nor can we rescind the controverted vote by a vote subsequent to it. That the crown has a power to dissolve the parliament is not disputed, but to exert that power in consequence of any judicial vote in this House, has the appearance of a cognizance like that of the superior court, with respect to the determinations of those that are inferior: to solicit such a measure, but ill becomes those who pretend jealousy of royal prerogative, and zeal for popular rights. This House, once chosen, is, to all legal and constitutional purposes, the people collectively, and to suppose their judicial proceedings, when chosen, to be cognizable by any number of the individuals who have chosen them, is to subvert our constitution from the root. Such, however, is the doctrine upon which the modern champions of liberty have founded the Amendment that has now been proposed to our Address. This House has passed a judicial vote. A certain number of freeholders have a right to determine whether this vote is legal; if they judge it to be illegal, they must solicit a dissolution, if they solicit a dissolution, the House ought to be dissolved. Till I lose the use of those faculties which God has given me, to distinguish right from wrong, wisdom from folly, and freedom from faction, I can never adopt this opinion; and till I adopt this opinion, I can never concur in this motion.

Lord George Sackville desired the Address might be read; and when the words "To offer to his Majesty our most dutiful thanks for the favourable opinion he is pleased to entertain of our conduct" were pronounced,

Lord *George Sackville* said:

Sir; the hon. and learned gentleman who spoke last, has left us to guess at his real sentiments relative to the people's Petitions. He has not yet rightly formed his opinion; he has not yet received full instructions. When his brief is enlarged he will know what to plead. But this is not a time for delay; the season is critical. The minds of the people are alarmed, and they have high expectations from the deliberations of this House. They are alarmed, lest the influence of ministers

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should have so far operated as to surprize their representatives into a vote dangerous to their liberties. And it behoves us, to be extremely careful in our Address to the throne, lest we should rather confirm than remove their suspicions. If these have their foundation in truth, and more has been done than can be justified, it certainly behoves us rather to redress, than to persist in the wrong; and notwithstanding what the hon. and learned gentleman has said against rescinding, it is no dishonour to this House to retract a hasty vote, nor is it without precedent. Acts of the whole legislature are frequently repealed, when they are found injurious, or even disagreeable to the people: and it cannot surely be contended, that a vote of one branch of the legislature is more sacred than a solemn act of the whole. The practice of the inferior courts, which the hon. and learned gentleman seems better acquainted with than with the proceedings of parliament, is no rule for this House. The decisions of this House are cognizable no where but in this House, and never to acknowledge itself to be in the wrong, would be to arrogate infallibility, which only one earthly power has yet thought fit to claim. If the people's suspicions are without cause, they are general, and strong; let us not therefore cherish the ill-humour, but, as we are the representatives of the people, let us endeavour, by every lenient method, to give the people satisfaction.

The words that have now been read, do not seem to be calculated for that purpose, but rather to increase the popular jealousy and discontent. The minister, by artfully introducing into the Speech, his Majesty's sense of the conduct to which the words refer, had, no doubt, a design to impose upon the nation an opinion, that the proceedings of this House, upon a late occasion, were perfectly agreeable to his Majesty; an opinion, than which nothing can be more injurious to majesty, nothing more offensive to the people. The unprecedented decision of the majority of this House, with regard to the Middlesex election, has spread a gloom throughout the whole kingdom; every brow is clouded, and every heart heavy. The freedom of election is the sacred palladium of English liberty; and when that is violated, it cannot be long before our constitution is in ruins. It is not enough that the majority who decided this question are satisfied of the rectitude of their intentions; and that they did not mean to break in upon that freedom; the people must be satisfied. Their all is at stake, they apprehend that is in danger, and therefore they have a right to demand security. The powerful influence that operates in this House, is too visible. The people see it, and dread it. But a snare is now laid to involve our sovereign in the guilt of his corrupt administration; to draw him in as a party to countenance the desperate measures of his ministers; a snare, which it is to be hoped this House will break. Whoever can concur in offering such indignity to his sovereign, is neither a good senator nor a good subject. He can have no worthy conceptions of the exalted character of a great prince, nor of the inestimable value of the liberties of a free people.

Sir; if the words excepted against are suffered to pass, then it will be understood that his Majesty approves the violation of which the people complain. And though his Majesty, in the generous unsuspecting frankness of his nature, may not perceive to what an unhappy catastrophe the perfidy of his ministers may lead, yet surely it is the duty of his parliament to guard him against the insidious artifices of those, who having rendered themselves odious by their conduct, have nothing more to do but to render themselves secure by their cunning.

Sir, does not every one perceive, that if this House is led to address his Majesty for his approbation of the proceedings of this House, or, in other words, for the favourable opinion he entertains of its conduct, that the people will immediately conclude, that he approves of the election of a representative, whom the majority of the electors do not approve, and against whom the Petitions of the people have been chiefly directed; that, as their Petitions remain yet unanswered, this is intended as one general answer; and that the grievances of which they complain will find no redress; that their beneficent father, to whom their humble Petitions were addressed, has, by evil counsellors, been determined against them; and that now every dawn of hope, every glimmering of comfort, is quenched for ever; except from free remonstrances, or the last appeal.

Sir, was the cause of complaint of less importance, the clamours of the people would be less general. But the people are now in agitation throughout the whole

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British empire. They wait, with loyal hearts, in expectation that their representatives will interest themselves in their behalf; if they are disappointed, that disappointment may lead to despair, and the event may be dreadful. Perhaps it is no uncharitable supposition, that the daring abettors of these alarming measures, may hope, by their repeated outrages, to provoke the spirits of the people to the last extremity, with a view to wreak their vengeance upon such as are brave enough to risk their lives in support of the constitution. They may wish for a repetition of the bloody massacre of St. George's Fields, or for a more bloody massacre among the petitioners. In that general confusion they may hope to escape, or perish in the tumult with honester men. If this be their hope, appearances are strong in their favour. The people are already sensible of the malignity of their hearts, and are ripe for doing themselves justice, if justice is denied them in the ordinary course. Nor are the perpetrators of these wrongs insensible of the people's inclinations, or remiss in preparations to give them a hostile reception; why else are troops marching, at this peaceable juncture, from all quarters to the capital? Why else an order for the augmentation of troops in a sister island? Why a reinforcement of our army at home with three regiments of neighbouring mercenaries? Is it possible that an English House of Commons can see all this with indifference? Can with eyes open to the dangers that threaten the noblest constitution which the world ever beheld, sit still and approve the measures by which its ruin is to be accomplished? What will the people say of such a House? What will posterity say? Some future historian, lamenting the shattered remains of ruined liberty, may possibly conclude, 'Vendidit hic patriam auro.' Let not this opprobrium degrade the dignity of this House, lest the people despairing of relief from a corrupted parliament, begin to deride its authority, and resolve to be governed without one. What has happened in other free states, is not impossible to happen in this. The subjects of Denmark once boasted of the protection of a parliament. The parliament betrayed their liberties, and they, in return, abolished their parliament. While the parliament continues independent, the people remain in security; but if once the representatives of the people are suspected of corruption, if once they are capable of entering into league against the people, all confidence will be at an end, the authority of this House will gradually decline, and at length, people growing indifferent, will patiently acquiesce in the arbitrary decrees of one tyrant, rather than submit to pay the hire of corruption for three or four hundred.

Let us therefore, Sir, convince his Majesty, by our Address, that the grievances of which his people complain are not, as his ministers would persuade him, the murmurings of a few factious and turbulent people, but that they are the sentiments of the majority of his subjects. And that, in order to discover upon what foundation they are raised, we, the representatives of the people, will enter seriously into an enquiry into the conduct that has occasioned them; for which reason, I am for omitting the words in question, and for inserting the Amendment.

Mr. *Charles Jenkinson:*

Sir; the hon. gentleman who spoke last, seems to be alarmed for the authority of this House. I should readily agree with the hon. gentleman, if the authority of this House was to depend on the voice of the people out of this House. The people who complain of the decisions of this House, cannot be judges of the motives that lead to those decisions. They hear but one side of the question. Those gentlemen who are active in spiriting up the people to an opposition, do not fairly represent things. At their meetings to harangue them, they only inform them of what they themselves have said in this House, or what they have been told others of the same sentiments have said; but they carefully conceal, or intentionally misrepresent, what has been urged on the other side of the question. Surely gentlemen will not think this a fair way of proceeding. Were the authority of this House to depend upon the popular opinion, scarce any laws would be regarded: all laws, in their immediate effects, are restraint and inconvenience, and the multitude never consider remote advantages; the supplies for the support of government would never be raised, if their concurrence was necessary, nor would any laws made for the regulation of their morals be attended to. To found, therefore, the authority of this House upon the popular voice, is vain and idle.

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It has, I hope, a nobler support; a consciousness of the rectitude of its proceedings; for, however gentlemen may be led to differ in opinion on the questions that come before them to be debated in this House, I hope they will always concur in supporting its dignity, and preserving its authority.

Sir, as to the decision of which the hon. gentleman so grievously complains, many of the gravest and most sensible men in the kingdom, without doors, are, to my own personal knowledge, of the same opinion with the majority within doors; and I do aver, that if the leaders of faction had not taken more than ordinary pains to propagate their absurd notions of the illegality of that decision, it had never been opposed but by the thoughtless multitude in the county to which it referred. Gentlemen, therefore, who would make this a pretence for alarming his Majesty with the notion of real discontents, would do well to find something more real to produce as a grievance, for there is not, perhaps, one unprejudiced person in the kingdom, who does not concur in the justice of the exclusion, which this decision was intended to confirm.

Sir, the aspersion which the hon. gentleman has been pleased to throw out against the independency of this House, is of another cast. It is countenanced by those who have been in the same situation with the persons whom it is particularly intended to affect; and they, it may be presumed, can best tell, how far they themselves were then influenced to betray the liberties of their country. For my own part, till I can discover that an attack is made upon those liberties, I shall think, that to serve my sovereign is to serve my country, the most honourable and important of all employments; and I shall think the man, who by crafty insinuations endeavours to interrupt his Majesty's servants in the regular course of government, an enemy to both; the most infamous and detestable of all characters. Those who are thought worthy to be entrusted with the conduct of public affairs, are more immediately the guardians of the public rights. If they betray their trust, this House has, and I trust will ever exert its authority over such delinquents. But this House, at the same time that it is watchful for the people, should likewise be jealous for the honour of its members. To whom can the King's servants fly for vindication from unjust suspicion, but to the justice of this House? If the authority of this House is weakened, those who govern, and those who are governed, will be alike the sufferers. Gentlemen may declaim upon corruption; it is a sounding word; but the lust of popular applause has no less power to corrupt the mind, than the lust of money. I would therefore no more disturb his Majesty's repose with an alarm of frivolous complaints to gain popularity, than I would vote away the people's rights to secure a place or a pension. For which reason, I profess myself against the Amendment.

Mr. Sheriff *Townshend:*

Sir, I am equally surprized and astonished, if any thing from that quarter could surprize or astonish, to hear gentlemen affect to be unacquainted with the grievances of the people, to discredit their complaints, and to disregard their Petitions. A ministry who study to distress the people, and render them desperate, may do well to endeavour to lessen their importance; but the consciousness of the rectitude of their own measures, will be a feeble defence on the day of trial. The 'grave and sensible' men, whom places and pensions, and lucrative jobs, have bound in a league together against the community, may concur in applauding the measures by which the ruin of the community may be most effectually brought about. We are told that there are grave and sensible men without doors, who approve of what is doing within; and we know that there have been grave and sensible men, whom places and pensions, and lucrative jobs, have bound in a league together against the community, and it is more than probable that such grave and sensible men there are now; they may probably, too, be of the hon. gentleman's personal acquaintance, and there is no doubt but that they personally agree together, whether they are without doors or within; they have one common object, the ruin of the public for private advantage; and nothing is more natural, than that, as far as their influence can reach, they should endeavour to obtrude their own narrow sentiments upon others, as the general opinion of their fellow subjects. But let these men be called out from the sunshine of court favour, let them be deprived of their places, their pensions, and their jobs, and placed in the situation of other subjects, mixing

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freely with them, and bearing their portion of common duties, of public services without reward, civil offices that are attended with trouble, inconvenience and expence, and then let the most hardened and abandoned of them be asked if they hear no complaints, if they feel no grievances but what are propagated by the leaders of faction; they will then probably be disposed to acknowledge, what they cannot now be supposed not to know, that every corner of the kingdom teems with unparalleled oppressions. Within the county which is honoured with their distinguished hatred, their vengeance knows no bounds. The unhappy wretches, whom misery and oppression have excited to transgress the laws, are not left to the punishment which the laws would inflict, but the sufferings even of death have been aggravated, by ordering the execution at their very doors, and offering an horrid outrage to humanity, by putting the husband and the father to death, before the eyes of the children and the wife: the magistrate, who by the duty of his office is compelled to be present upon these mournful occasions, is insulted by a military force, sent unasked, and unneeded, to add horror to the scene. To effect these horrid purposes, the solemn sentence of the judges has been overborne by the mandate of a minister, and the violation has been justified by the tools of power, in open defiance of the dictates of law, and the cries of humanity. These are among the grievances, of which those who cause them pretend to be ignorant; every nerve of government is strained to distress and intimidate the people, and when complaints are thus extorted, they are reproached for complaining without a cause. But does not the chair shake under you, Sir, when you hear the despicable tools of a detested minister affect to treat the discontents of the people with indifference, with ridicule, nay with derision and contempt: but against these abuses it is in vain to declaim, the government is rotten throughout; the constitution is rotten. The time however may come, when petitions will be followed by remonstrances, and remonstrances by execution; in that day of adversity, where will the wretches to whom the nation will owe its calamity be found? Not in the field, supporting their party, for baseness is always timid; but lurking in a corner, and enjoying the carnage, for timidity is always cruel: but in this obscurity, surely the hand of justice, the hand of vengeance shall find them. I would not paint too strongly, but it needs no great penetration to foresee, that an administration at variance with the people, must eventually be dangerous to the prince upon the throne.

The hon. gentleman has averred, that the leaders of faction, a name which he has been pleased to bestow upon all those who are active in the cause of their country, are the only persons who spread an alarm of violated rights, by a late unprecedented decision of a majority in this House; but I, Sir, on the contrary do aver, that the decision itself instantly spread the alarm; it struck every independent member within the House with astonishment, and every independent freeholder without the House, with grief and apprehension. The servile creatures of the court, the numerous band of mercenary hirelings, who, by long violence to the feelings of humanity, have lost them, were the only persons who did not take the alarm; if the court sycophant, and the court mercenary, whom habitual prostitution has made callous to shame, are the only grave and sensible persons, and the whole body of unplaced and unpensioned freeholders are frantic and foolish, then what the hon. gentleman has averred may be true; but if, on the contrary, those are fools who sell their dearest birthright, the freedom of themselves and posterity for guilt and disgrace; and those are wise who stand up in its defence, then what he has averred is false. In behalf of those persons, the injured freeholders of Great Britain, who alone are to be depended upon for national support, and national defence, and to assure to them a candid hearing of their complaints, I am for the Amendment proposed.

Mr. *Thomas De Grey:*

Sir; I must confess that the hon. gentleman has entertained the House with the exhibition of some very strong painting; whether he has, notwithstanding the caution he is pleased to express, painted too strongly, I shall leave others to determine; the principal figure in his piece is himself; he is in an office which in itself is troublesome and disagreeable, and a corrupt ministry has made it still more disagreeable and troublesome, in mere spite to the county in which it is executed: he has been made the instrument of unheard-of-barbarity, and troops have been sent unasked to see the service per-

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formed. He has received an unlawful mandate, and it has been justified by the tools of power. As to the nature of the office in itself, it is to be supposed the hon. gentleman was well acquainted with it, when he stepped out of the way to take it upon him, when he did not acquiesce in an appointment to it, from a principle of bearing his share of common duties, but solicited it with an activity and zeal, which shewed that he had a point to answer, a desire to gratify by it; he has therefore as little claim to complain as to boast, with respect to any thing that he either does or suffers in the usual course of business, and as to these enormous grievances, these burthens that have been wantonly and malignantly superadded, they will appear to arise from a provident care in government, that when it was unhappily necessary to take away the life of an offending subject, other subjects might be as much benefited by it as possible; that others might be deterred from committing the same enormities on one hand, and preserved from suffering by them on the other, the criminal was ordered to be executed near the spot where he had offended, and where others were still factious, riotous, and disobedient. The mandate, such as has been often given by the wisdom, and even the mercy of government, upon the like occasions, the hon. gentleman did not chuse to obey, and therefore pretended it was illegal: the question was referred to the judges, and they having declared for its legality, are stigmatized by the opprobrious name of tools of power. As he has, by a false medium, magnified grievances that apply particularly to himself, so by the same artifice has he magnified discontents supposed to arise from the sufferings of the public. The discontents that are held up as spectres, denouncing the subversion of government, and diffusing consternation and terror, are nothing more than the senseless clamours of the thoughtless and the ignorant, the lowest of the rabble, who naturally abhor all government, and who are therefore easily excited to resist the best, by any pretence, however shallow, that is suggested by those who have views of advantage very different from the advantage of the community. Men of worth and probity detest faction and clamour, for the same reason that the profligate and the base abet and encourage them. And will any man say that the late petitions against grievances are promoted by men of worth and probity? The petition for Westminster is a demonstration to the contrary. Of 25,000 respectable inhabitants, many of them of the first distinction, two only, in the rank of gentlemen, could be found to countenance the petition. Every member of this House who hears me, can tell by whom, and by what means the Westminster petition was obtained; they know that a ferment was kept up by a few despicable mechanics, headed by base-born people, booksellers, and broken tradesmen, and that the petition was signed by the scum of the earth, the refuse of the people, unworthy to enter the gates of his Majesty's palace——

Here he was interrupted by Mr. Serjeant *Glynn*, who stood up and said:

Sir, I must insist upon it, that the hon. gentleman has been guilty of an offence against the people of this free kingdom, and if he does not correct himself, I shall make a motion against him. The privileges of the people of this country do not depend upon birth and fortune: they hold their rights by the noblest of all distinctions, that of Englishmen, and of these rights they cannot be divested, but by the subversion of the constitution.

Mr. *De Grey* then explained himself, and said, that he meant only, that those who had signed the petition were not men of dignity or consequence; that their chairman was no other than a bookseller.

Mr. *George Onslow:*

Sir; notwithstanding what has been said by the learned serjeant, I cannot help being of the same opinion with my worthy friend. I am of opinion that the petitioners are not men of property, either in Westminster or elsewhere: I am sure they are not men of property in the county which I have the honour to represent, neither are they the majority of the freeholders of any class; not a tenth part of those who may be stiled gentlemen put their hands to the petition, and of 600 whose names are in the commission of the peace, no more than 70 could be induced to sign it, by all the arts, and all the influence of the faction. I introduced a worthy member into this House, to the exclusion of an unworthy member, and I have been reproached for it; I shall however, always be happy in the remembrance of the motion I made last year for his admission. [The admission of colonel Luttrell.]

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Sir *Anthony Abdy:*

Sir, I have seen the petition for the county of Surry, which that gentleman has the honour to represent; and I do declare, in the face of that gentleman, it is signed by a very great majority of the freeholders, many of them persons of great property, and formerly his zealous friends. As to the justices of the peace, it may perhaps be true, that the petition was not signed by more than 70 in 600: they may have their private reasons for withholding their assent to a measure which involves a complaint; but I believe there are few, who, if they were drawing the character of a good and respectable man, would think it could be heightened by adding that he was a justice of the peace, either for Surry or Middlesex. As to the motion, which the hon. gentleman says makes him so happy, he may be assured that it is one of the works, which, whenever he shall rest from his labours, will be sure to follow him.

Mr. *George Onslow:*

Many of my constituents, when they signed the petition, I speak from certain knowledge, knew no more what they were about than this table, [laying his hand upon the table before him] and I never will consent to the House of Commons joining with the people against the House of Commons.

Mr. *Howard:*

Sir; the compliment which the hon. gentleman has paid to the freeholders of the county of Surry, will probably be remembered. It happens, however, that I know many of them; and I think that, in general, they are sensible men. If the hon. gentleman had said that they did not know what they did when they chose him for their representative, his assertion would probably have found more credit.

Mr. *Rigby:*

Sir; notwithstanding all that has been said about grievances, complaints and petitions, I am persuaded that the people in general are content and quiet: they feel no grievances, they form no apprehensions; and if it were not for petition-hunters, who travel from North to South, and from East to West, who tell them there are grievances which they do not feel, and apprehensions which they do not conceive, I am sure the name of a petition would never have been heard in more than three counties throughout the kingdom. If it were not for the officious diligence of these incendiaries, how is it possible that the farmers and weavers in Yorkshire and Cumberland, should know, or take an interest in the Middlesex election of representatives in parliament. It is impossible, that of themselves, they could ever think even of asking a question upon the subject; but a few factious and discontented people, who have no way of making themselves of consequence but by distressing government, go round the country; meetings are advertised, speeches made, the parliament abused, government vilified, and the people inflamed; a petition ready drawn up is produced and read, and before the ferment subsides, it is hawked about from one town to another, till a sufficient number of names are collected to make a shew, and then it is passed for the sense and act of the people. To pretend that any attention is due to petitions thus fraudulently obtained, is an insult upon common sense. But supposing that a majority of freeholders had signed these petitions, without influence and solicitation, the majority, even of this class, is no better than an ignorant multitude, whom it is absurd, in the highest degree, to suppose capable of deciding upon a question, about which the best lawyers, and the ablest men in this House, are still divided. Let the infamous abettors of sedition blush at their appeal to such a tribunal. If the authority of this House is to be called in question by people of this class, if we suffer our proceedings to be controuled and directed by popular clamour, excited by factious invective and misrepresentation, we must bid adieu to all government by law, and depend for protection upon the caprice of the multitude. As this would certainly be the greatest evil that can befal us, and as I think the Amendment tends directly to bring it on, I shall give my vote against it.

Sir *George Saville:*

Sir; I have been highly entertained by the picture which the hon. gentleman has been pleased to draw of those, whom, with an elegance and modesty almost peculiar to himself, he has characterized by the courtly epithets of petition-hunters and incendiaries. I frankly acknowledge before this House, that I have appeared at several of the meetings that have been advertised, both in Yorkshire and

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elsewhere; but I deny that I ever hunted after petitions or petitioners: I have indeed, been often solicited to countenance and support both. And I make no scruple to acknowledge, that I never declined appearing wherever I was invited. I allow, with the hon. gentleman, that the annihilation, or even the diminution of the authority of this House by the people, will be a very great evil; but I cannot grant, that it is the greatest evil that can befal this nation. I can tell him of a greater evil, and that is, the invasion of the people's rights by the authority of this House. I own the evil of which the hon. gentleman has made mention, to be the greatest but one, and from that one the other as naturally flows, as a river from its source. How this evil came to exist, it is not for me to say; the treasury-bench can best explain its origin: for it is my firm belief, that the hon. gentlemen who so worthily fill that distinguished seat, gave it birth, nursed it in its infancy, and trained it to maturity. I do not say that the vote of expulsion, which was the beginning of sorrows, was the offspring of corruption, nor do I say that the majority of this House sold the rights of their constituents, but I do say it, have said it, and will always say it, that they have betrayed them. These are my sentiments, and these I, and every gentleman who hears me, knows to be the sentiments of the people. It is in vain to dissemble any longer. Things are come to a crisis; and I should esteem myself a traitor to my country, were I to suppress the spontaneous dictates of my heart. Ministerial gentlemen will therefore excuse me, when I tell them, that it is my belief, that the authority of this House is not to be maintained by big words and sounding expressions, but by wise counsels and prudent measures. It is in vain that we value ourselves on the sincerity of the principle, if we do not convince others of the rectitude of our proceedings. The people are not such ignorant dupes as certain wiseacres would represent them. They understand their own rights, and know their own interests as well as we do. Language, and not understanding, constitutes all the difference between us; few of them, I fancy, were they present to hear what is said, would entertain a more elevated opinion of those orators by whom they are degraded, than the orators themselves entertain of them. For let me whisper in the ear of some of these gentlemen, that a large paternal estate, a pension, (the reward not of their own merit) and support in the treasury, are greater recommendations to a seat in this assembly, than either the honesty of the heart, or the clearness of the head.

After sir George had ended his speech, the debate went on: when

Sir *Alexander Gilmour* rose up and said, that the words of sir George had a very harsh sound; that, indeed, he was but just come from school, and might not be supposed sufficiently acquainted with the rules and forms of the assembly into which he had not been long admitted; and that therefore his opinion might have but little weight; but that were the House to be influenced by his judgment, some expressions, derogatory to the dignity of that assembly, should not pass uncensured, as he believed them unprecedented.

Mr. *Conway* said, that allowance should always be made for words spoken in the heat of debate, to which alone he was sure it must be attributed, that expressions carrying so severe a reflection on the whole House, had escaped from so moderate a man as his worthy friend.

Sir *George Saville*:

Sir; speakers in this House have always been allowed to rise up, to explain what may have been hastily spoken, or hastily censured, and I now rise up to illustrate, but not to retract, what I have said. Suppose that a private gentleman should entertain a bad opinion of his steward, it would certainly be an unfortunate circumstance both for the steward and the gentleman: if this bad opinion should happen to be just, it would be more unfortunate; but if the gentleman should be in a situation which made it dangerous for him to express his opinion, it would certainly be more unfortunate still. I am greatly obliged to the hon. gentleman over the way, for what he has said in my behalf: his opinion of words spoken in heat is certainly just, the law has adopted it, even in cases of murder: if sudden passion has been excited, and the fact is perpetrated before the blood has had time to cool, it takes another nature, and is distinguished by another name. As to myself, I am not conscious that I have spoken in heat; but if I did, I have now had time to cool, and I again say as I said before, that this House has betrayed the rights of its constituents.

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Sir *Alexander Gilmour* then rose up in great anger, and urged, that in times of less licentiousness, members had been sent to the Tower for words of less offence; and that even if passion had been acknowledged, it would not have been admitted as an excuse.

Sir *George Saville* then rose up again, and, with his usual composure, said:

Mr. Speaker, I am accused of having spoken hastily, violent, and angry words, but the charge seems more applicable to those who have brought the accusation, if we may judge either by the words or the gestures of the speaker. I am not remarkable for being passionate, I do not feel myself so at this instant; but if I am mistaken, if I am now actually in a rage, I have been so ever since the fatal vote was passed, and shall be so till it is rescinded. Nor shall the mean consideration of my own safety, be ever put in the balance against my duty to my constituents. Let others fall down and worship the golden image which Nebuchadnezzar has set up; I will own no superior but the laws, nor will I bend the knee to any but Him who made me.

Lord *North* interposed with great propriety and moderation, and said, that he hoped neither the gentleman who had mentioned the Tower, nor the gentleman who had spoken the hasty words, would think any more about either.

Mr. Serjeant *Glynn:*

Sir; my hon. friend has been severely censured for declaring, that in his opinion, the majority of this House have betrayed the rights of their constituents; but as to myself, I think his declaration not only innocent but laudable. I conclude that it is innocent, because every member has an indubitable right to declare his sentiments, and upon this right the very existence of this House depends, which, from the moment there is an end of free debate, will degenerate from an assembly of free representatives of a free people, into a gang of slaves. You are, and have long been told daily in the public newspapers, that you have betrayed the rights of the people; and shall an obscure and anonymous writer of paragraphs for newspapers, enjoy a freedom of speech that is denied to the members of this House! Let us be more cautious in establishing despotism among ourselves, and less hasty in assuming a power over each other, which by turns will degrade us all: let us not break down the mounds which restrain the torrent at its source, lest the people, who are already alarmed, should dread an inundation of tyranny, that will overwhelm them all. I know that our journals contain precedents of such stretches of power as some have shewed an inclination to repeat, but I know too, that our journals contain many things, which are warranted neither by the law nor the constitution, and I will venture to affirm, that those precedents are among the number, though they may happen to have received a sanction by practice since the Revolution. Actions, and not words, are in every case the most proper objects of enquiry and punishment; an overt act, in the opinion of the best lawyers, is almost always necessary to render men accountable in the ordinary commerce of life; and if this is the case, surely the members of this House should not be accountable for words spoken in their debates. Our debates, Sir, can neither be free nor honest, if the tongue is shackled by a slavish fear of giving offence to a majority. Tiberius was perhaps one of the worst characters in all antiquity, yet even Tiberius was satisfied with controuling the actions of men; he never extended his tyranny to their speech: and shall a British senate push the inroads of tyranny upon the natural rights of mankind, more than a monster, who has been held out for ages, as the disgrace of human nature! Let this never be told in the street, let it never even be thought in the closet; if the sacred flame of liberty is every where else extinguished, let it be preserved like the vestal fire among us: it is the principle of life, it is life itself, it is the soul, it is that image of God, without which we cease to be men. But, Sir, I do not only think that the words for which my hon. friend has been censured are blameless, I think they are praiseworthy. If gentlemen would estimate them fairly, they would think themselves rather obliged than injured by a declaration, that is as honest as it is frank. Would they have gentlemen prevaricate, and rather pamper a sickly appetite, than point out the disease! I know that they are sore, yet who would suffer a wound to mortify, rather than endure the pain of dressing? A desperate disease requires a desperate remedy. The present is such: we must not trifle with it. If we do, woe be to us; the avenger is at hand, nay, even now at

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the door. My honoured friend has only expressed the sentiments of the people, who are ready to do themselves justice; and if it were not for this rod which hangs over our own backs, I doubt not but these immaculate gentlemen would be ready enough to chastise the member, who has so profanely charged them with guilt. Were they not more afraid of those without, than careful of the privileges of those within, I verily believe, that for what I have now said, I should myself be in danger of the judgment. I most heartily join with those who lament, that the authority of this House is fallen so low, that it does not dare to punish the most flagrant attacks upon its dignity and honour; I lament still more that these attacks are not made without cause; and if the people did not see and feel that we deserve reproach they would never countenance or encourage the affronts that are continually offered to us. They know their own interest as well as we do; if they saw that we pursued it, they would establish our authority upon a basis that could never be shaken; but when, on the contrary, they perceive that we have a separate interest incompatible with their own, they will put dignity, respect and authority, out of our power. We have lost, I had almost said we have forfeited, the love and confidence of the people, and we cannot bear that one of our own members should report to us the opinion that they have conceived of our conduct. As long as causes produce their effects, so long will the present conduct of this House render it despicable and impotent. Whatever opinion it may fondly have conceived of an innate and underived omnipotence, it can no more preserve its power from contempt, when it is employed against the people, than the rain from descending when it becomes heavier than the atmosphere which surrounds it.

Mr. *Dyson*:

We have been told, Sir, in a laboured harangue, that we have lost the love and confidence of the people, that an hon. gentleman who has reproached us with betraying our trust, has spoken the sentiments of the people, that we are at this moment in danger of being called to account by the people; that the people are ready to do themselves justice upon us, and that we should beware what we do, because the people, whom by one of the rhetorical flourishes which are so useful on other occasions, he calls the Avenger, is at the door. Sir, it is hard to say whether this insult is more gross against this House or the people. Is the rabble that is now supposed to be gathered about the door, the people? Are the writers of news-papers, who wish for a prison or a pillory, that their libels may be thought more important, the people? Or do the petitions, about which so much has just been said, contain the sense of the people? The people are too great, too respectable a body to become the tool, the puppet of any faction; they are not to be hired to halloo and hiss with porter and geneva; they are not to be brought gaping to an inn by such tricks and devices as gull clowns at a fair. An hon. gentleman has told us that he did not seek petitioners, but that petitioners sought him; but it is well known, that though this may be true in appearance, it is false in fact. When a great man has a mind to be thus sought, intimations are given to proper persons, that they must seek him: a few staunch friends meet together, with an invitation to the great man, drawn up by himself, in their pocket. When this is formally sent to him he graciously vouchsafes to attend. A general meeting is then proposed; advertisements are inserted in the news-papers; cards of invitation are every where distributed, and agents attend on market days at inns and alehouses, to see who can be picked up by the influence of a customer, or the hopes of a treat. The great man receives another copy of his invitation to himself, and he again deigns to accept it: when he comes he is pressed to take the chair, as has been preconcerted, and thus he is happily both sought and found: from the chair he relates what he has heard from the minority of this House, of wicked ministers and injured liberty, taking care to suppress the arguments, by which the majority support the wisdom of parliament and the rectitude of administration, and then, producing a petition, hands are collected like money at the church door for a brief; and when this rhapsody of malice and sedition, in which majesty and ministry are involved in one general charge of combining against the constitution, is brought up to insult the king and disgrace government, we are told, it is the sense of the people! We have been superciliously warned of tyranny, and told that it is advancing against us with hasty strides. I am an enemy to tyranny, Sir, and therefore I cannot with-

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out indignation hear this House threatened with the most preposterous and horrid of all tyranny, that of a mob. To insinuate that the measures of a legislative body should be influenced by echoes of sedition from the rabble, is to insinuate that all government should be at an end. It is to restrain those with whose vengeance we are now threatened, that all government is instituted, and if they are not restrained, a state of nature will return, and the earth will be filled with violence and oppression, under the pretence of liberty and justice. If our liberties are in danger, it is from those who have set up the cry; it is from those who insult both majesty and administration, and not from those who would support the best of princes in the exercise of constitutional rights, and the measures to which he gives the sanction of his authority.

Colonel *Barré:*

Sir; the hon. gentleman who spoke last, has by a common court-artifice held up majesty as a screen to ministers, and endeavoured to transfer the infamy which mal-administration has drawn upon one, to the other. In this attempt, however, it is impossible he should succeed, for the people will always distinguish between them; their opinions of his Majesty, and of his ministers, are as opposite as of truth and falsehood, right and wrong. The people feel for his Majesty, with the same sensibility as for themselves. The people of England know, the people of Ireland know, and the American people feel, that the iron hand of ministerial despotism is lifted up against them: but it is not less formidable against the people than the prince. The soft breath of esteem, complacency and veneration, which wafted congratulations from every heart to the throne, is now changed into groans, murmurings and complaint. To the weak and arbitrary measures of men without knowledge and without principle, who have succeeded each other in administration, the discontents of the people, and their opposition to government, can only be imputed. Every tree is known by its fruit, and that administration must certainly be erroneous, or corrupt in no small degree, which has alienated the affections of thirteen millions of faithful subjects, from an amiable sovereign; whose universal acclamations proclaimed their joy at the prospect of being governed by a native prince, of a happy temper and virtuous disposition, from whom every national blessing was expected. The declarations of such ministers, who seem to have called good evil, and evil good, must, like dreams, be taken in a contrary sense; when they speak of peace we may reasonably suppose that there is danger of a war; and that if a war does not happen, it is kept off by disgraceful concessions. I call upon that gentleman, [pointing to sir Edward Hawke, first lord of the admiralty], who from the nature of his office, must be acquainted with it, to declare to this House the real state of the dispute which is at this time subsisting between the courts of Great Britain and France.

Sir *Edward Hawke:*

The French have not wholly given up their complaint of an insult, which they pretend was offered to their flag. While some of his Majesty's ships were anchored in the Downs, a French frigate, bearing a royal commission, arrived, and without paying the usual salute, cast anchor in the same road. The lieutenant who commanded his Majesty's sloop the Hawke, of twenty guns, sent an officer on board to demand the customary respect, which the captain of the French vessel refused: having, as he said, no orders to pay it, and not being sufficiently informed of the right to demand it, he could not nor would not risk the honour of his nation in a point of so great consequence. The lieutenant returned for answer, that his pretended ignorance should not exempt him from paying that act of obedience to the British flag which his nation had ever paid to it in the narrow seas, and with a firmness, becoming the dignity of a British officer, declared he would sink him if he obstinately refused. The French captain was peremptory, and the lieutenant drew up alongside of his vessel, and fired a shot into her; at the same time he sent the officer who had carried the message to strike the flag, which the French captain thought proper to suffer to remain in the same situation during his stay. This is the nature of the present dispute. The French ministry have complained of this act, but seem by no means disposed to carry things to extremities in support of their demand of redress, as they find no disposition in our court to relax in the claim to that ceremonial of submission, the exacting of which was the occasion of the dispute.

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Colonel *Barré:*

This is no time for evasion. I call upon administration to know if all is well abroad? If the French do not threaten and are actually preparing for war? The King in his Speech does not give us the usual strong assurances to the contrary, and we all know what is to be inferred from the cautious wording of speeches from the throne. I call upon that wretched row of no-ministers, (pointing to the Treasury-bench) for a more explicit answer.

Lord *North:*

If we are no-ministers, why does the hon. gentleman call upon us for an answer? If he allows us to be in the secrets of government, does he expect we shall answer, All is well, without knowing what meaning he will put on those words, All is well?

Colonel *Barré:*

My meaning is, that you declare before this House, whether all is fair with France? whether France does not threaten hostilities, unless servile submissions are made on the part of Great Britain to prevent them?

Lord *North:*

We have at this instant, no particular contest, about which there is a probability of going suddenly to war with France. Is that fair? France has no particular complaint against us, except what my hon. friend has just now explained, about which, it is probable, she will risk a war. Is that fair? And I will take upon me to assert in the face of this House, notwithstanding my insignificance as a minister or no-minister, that no servile submissions will be made by the present administration on the part of Great Britain, to France or any other foreign power upon earth, to avoid a war; and that whenever the national claims shall be brought in competition, they will be defended with dignity, and supported with spirit. I will say more, that the assertion which some gentlemen have been pleased to throw out in the course of this debate, that this nation is in no condition to go to war, is not true; it is at this hour in a better condition to go to war, than any of its rivals, or its enemies.

Colonel *Barré* proceeded:

With regard to our colonies, the conduct of administration has been weak, irresolute, ineffectual, and disgraceful. Acts have been made by one set of ministers to inflame them, which by those who succeeded, have been repealed to appease them. By a third administration, those unconstitutional Acts, that had given birth to the most dangerous contention that ever was set on foot, concerning a subject that never should be brought into debate, were revived, in order to inflame the colonies, and drive them to extremity. When they resisted these unwarrantable Acts, troops have been sent and quartered in their towns, in direct violation of the law, to dragoon them into a compliance. And in justification of all this severity, a most treasonable representation of a peaceable and loyal people has been made to his Majesty, and to the astonishment of all who read it, delivered from the throne in the Speech of last session, which I beg leave to read in justification of what I have now asserted. [Leave being granted, he read as follows,] "At the close of the last parliament, I expressed my satisfaction at the appearances which then induced me to believe, that such of my subjects as had been misled in some parts of my dominions, were returning to a just sense of their duty; but it is with equal concern that I have since seen that spirit of faction, which I had hoped was well nigh extinguished, breaking out a-fresh in some of my colonies in North America; and, in one of them, proceeding to acts of violence, and of resistance to the execution of the law. The capital town of which colony, appears by late advices, to be in a state of disobedience to all law and government; and has proceeded to measures subversive of the constitution, and attended with circumstances, that manifest a disposition to throw off their dependance on Great Britain."

And now, Sir, I appeal to the whole House, I appeal to the things upon that bench (pointing as before,) if such a representation was a just representation of the honest, faithful, loyal, and till that moment, as subjects, irreproachable people of the province of Massachussets-bay? And if not a just representation, how unfit to be proclaimed from the mouth of Majesty throughout all Europe! I will venture to say, Sir, that all Europe knows it to be false. With what astonishment, then, must they be struck at the daring iniquity of those, by whose advice it was made? To crown all, a governor is sent

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to cure these disorders, and to reconcile this contradictory system of court policy, who, with vinegar in one hand, and oil in the other, was to mix up a mess, which if it did not remove the cause, was at least, to meliorate the symptoms: hear in what manner he proceeds to execute his commission: having received a letter from lord Hillsborough, in which were the following words, "His Majesty relies on your fidelity, for such an explanation of his measures, as may tend to remove the prejudices which have been excited, by the misrepresentation of those who are enemies to the peace and prosperity of Great Britain and her colonies, and to re-establish that mutual confidence and affection, upon which the glory and safety of the British empire depends," &c. he opens his commission to the assembly of Virginia, with a speech, a part of which, I beg leave to produce, as a master-piece of eloquence, and which must, on that account, do honour to those great statesmen, who appointed this very able lord, to remove the prejudices which have been excited, by the misrepresentation of the enemies of Great Britain and her colonies. "I think myself," says he, "peculiarly fortunate, to be able to inform you, that, in a letter, dated May the 18th, I have been assured, by the earl of Hillsborough, that his Majesty's present administration, have at no time entertained a design, to propose to parliament, to lay any farther taxes upon America, for the purpose of raising a revenue, and that it is their intention to propose, in the next session of parliament, to take off the duties upon glass, paper, and colours, upon consideration of such duties having been laid, contrary to the true principles of commerce." This peculiar piece of good fortune, which his lordship is so proud of, amounts to this, that the present worthy administration, had at no time entertained a design to add grievance to grievance; but that they did propose in the next session of parliament to take off duties, which, according to their ideas of the matter, were contrary to the true principles of commerce. These were the astonishing assurances, by which the prejudices of the people of America were to be removed; but his lordship was instructed to state the proceedings of parliament, as his Majesty's measures, and to explain them according to his notions of prudence; his lordship's notions of prudence, will, indeed, appear to be very extraordinary, for in consequence of these instructions, he assured the assembly of Virginia, that his Majesty would sooner lose his crown than preserve it by deceit, intimating, that his Majesty would support the measures of his present wise set of ministers at the hazard of his crown. But, according to the notions which other men have formed of prudence, this declaration was imprudent in itself, and still more imprudent with respect to the situation in which it was made. It was certainly imprudent to involve the measures of his Majesty, with those of his ministry; it was still more imprudent, as it was diametrically opposite to the sentiments of the people, to whom it was addressed; and it was more than imprudence, it was madness or folly to make any assurance which might lead the people of America to believe, that the interposition of any set of ministers, could influence the British parliament to impose, or to repeal any acts of taxation, by which the people of America were to be affected. It was also contrary to the general notions of prudence, to represent certain principles of taxation as distinct and independent of each other, which the wisdom of the British parliament has considered as one and the same. This distinction, and the disclaiming intentions to impose any taxes within a certain description to establish and support it, could not but inspire an American assembly, with a most contemptible idea of the measures of parliament, and the imbecility of those, by whom lawful government is administered.

Is it, therefore, to be wondered, that from such a governor and such instructions, the affairs of America should still remain in a state of distraction? That the colonies, from such politicians and such politics, should conceive the most sanguine hopes of gaining their point, and shaking off their dependance upon the British senate? To impose duties, one session, with the professed purpose of raising a revenue, and take them off the next, as being contrary to the true principles of commerce, is an instance of weakness and inconsistency, not to be paralleled, but by other measures of the same ministry, with respect to the government of the same people.

By a letter from the same great lord, who presides at the head of the department, to which the affairs of the colonies are entrusted, dated April, 1768, directed to Francis Barnard, esq. governor of Massachusetts-bay, his excellency is charged with the execution of certain propositions

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to be obtained of the assembly of that province, and in case of non-compliance, his instructions were to dissolve the assembly immediately. The issue was, the assembly refused to pay obedience to the governor's requisition, and the governor dissolved the assembly, agreeably to the ministerial mandate. But the most extraordinary part of the transaction, is, that the assembly which succeeded, was suffered to sit, and to deliberate, and carry on the ordinary business of the session, without so much as mentioning the subject for which the former assembly was dissolved; a proceeding so full of inconsistency and irresolution, could not but expose his Majesty's councils to the ridicule of every assembly throughout America, as futile and incongruous in the highest degree.

The propositions that were then agitated were of the greatest importance to the sovereignty of Great Britain; resolutions had passed the assembly of Massachusetts Bay, negative to the right of taxation, which the British parliament claims over all the subordinate parts of the British empire, and circular letters had been written to all her sister provinces, requesting them to unite with her in supporting these resolutions, and to disavow those letters which were looked upon as the foundation of an unlawful combination against the supreme power of the British legislature. But neither the one, nor the other of these points was obtained. The right of acquainting the sister colonies, with the deliberations of the respective assemblies, in order to solicit their joint concurrence, in any measure respecting their privileges, is asserted, and resolutions of the assembly of Massachusetts-bay, in direct opposition to resolutions and even acts of the British parliament, remain upon their journals to this day. In the midst of this ministerial contest, an attempt was made to crush some of the leading men, who were most active in the opposition, with a view to intimidate the rest; but in this too, the weakness of the ministry was no less conspicuous than their wickedness, for though they proposed to parliament, and obtained its sanction for the revival of an obsolete law, made in the tyrannical reign of Henry 8, in order to bring over to be punished here, men guilty of crimes against the state, committed in the colonies, yet they had not resolution to execute it, and the assembly protested against the revival of it in direct terms. By this pitiful no-management of these no-ministers, the contest remains undecided; and what they have not been able to accomplish by wisdom and good policy, is to be effected by military force; soldiers are sent over *in terrorem*, and because capacity is wanting to give lawful authority its full vigour, unlawful violence is to supply the deficiency.

General *Conway:*

Sir; we seem at present to have incurred a misfortune very common to puny disputants, but very incongruous to the wisdom and dignity of this House: we have in the fury of debate lost sight of what we are debating about: the subject of our present enquiry is, whether an amendment shall be made in our Address to his Majesty, intimating a necessity of enquiring into the causes of the present discontents: this proposal of amendment is founded upon popular complaints which have been made by way of petition to his Majesty; these complaints relate wholly to a measure of this House, concerning the election of a representative for the county of Middlesex; but instead of considering whether this complaint is well founded, instead of examining whether this House can with any propriety criminate itself, and in this Address, as it were, join the cry of the petitioners who importunately demand its dissolution, gentlemen talk of horned cattle, of executions in Spitalfields, of discontents beyond the western ocean, and many other things concerning which the petitions in question have said nothing, and which therefore, with respect to the matter in debate, do not come under our notice. We have no right to suppose the people discontented at any thing of which it is not pretended that they complain, and therefore should consider that only of which they do complain as the subject of the proposed enquiry.

The hon. gentleman over against me has mentioned many subjects of his own discontent, which he would, I dare say, be very glad to transfer to the people, but even supposing his discontent to be well founded, it is wholly foreign to the present subject of debate; nor is the discontent of the people, whether it be the discontent of the many or few, of the factious and selfish, or the loyal and public spirited, now to be taken into consideration. The people it is said have petitioned the throne against grievances, but they have not pe-

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titioned the parliament, and the grievance for the redress of which the throne is petitioned is,—what? a resolution of parliament; and how do they request the redress of this grievance? why, by a dissolution of parliament. But surely a greater absurdity cannot enter the most distempered imagination, than for parliament to support this charge, and concur in this remedy. Nor can a parliament intermeddle at all until it is called upon in a regular and constitutional way. For my part, I do not wish to evade an enquiry concerning the causes either of this gentleman's discontent, or of that which is called the discontent of the people: I wish for nothing more than a free, a fair, and full enquiry; that either the causes of this discontent, the subjects of this florid harangue may be proved to be groundless and fallacious, which I hope and believe will be the case; or that if, contrary to my apprehension, they should be supported, as well founded and real, the House may concert proper means of redress.

The question concerning the Middlesex election, is too important to be hastily decided. It has been agitated by the greatest lawyers, the most skilful legislators, and the ablest statesmen of the present time, and it is still undecided; shall we then, precipitately act as if it had been decided, and determined against us! I will not follow gentlemen, who have hunted this question with a precipitation that has carried them out of the chase, but I must say that this House appears to me always to have enjoyed the right of judging of its own members; that this right has never been before disputed; that it is but newly discovered that a power to put out, does not imply a power to keep out, and that a qualified person when elected against an unqualified person, ought to be refused his seat; for these reasons, Sir, I cannot, without the fullest conviction from the clearest testimony of the law, concur in any measure that may, however indirectly, impeach the conduct of this House that has been founded upon ancient principles, and on uninterrupted practice, and therefore am against the Amendments.

The Marquis of *Granby:*

Sir; I am sorry that I am obliged to declare myself of a different opinion from that worthy officer, but I cannot see what right this House can have to receive any person into it as a member, except by the full choice of his constituents: it was for want of considering the nice distinction between expulsion and incapacitation, that I gave my vote for the sitting of a member who was not returned in the last session of this parliament: that vote I shall always lament as the greatest misfortune of my life. I now see the Middlesex election in another light; I now see, that though this House has an unquestionable and long established right to expel, yet that a right to incapacitate is lodged only in the legislature collectively. I see that I was in an error, and I am not ashamed to make this public declaration of it, and give my vote for the Amendment.

Sir *Fletcher Norton:*

Sir; I entirely agree with the hon. gentleman who observed, that the merits of the decision which has been complained of in one branch of the legislature, and the right of petitioning his Majesty for a dissolution of the whole legislative power on that account, are questions of very high concern, and such as cannot with propriety be entered upon at this time. But I am clearly of opinion, that a day of enquiry should be appointed, when these questions may be considered with the solemnity and deliberation which they require; against such a day I will endeavour to prepare myself, and shall be happy to lay before the House such lights as my poor abilities may enable me to furnish. I am myself for satisfying the people, and I know no other way by which they can be satisfied than by a bill.

Lord *North:*

Sir; I rise up to do my part at this time to satisfy the members of this House, and by satisfying them to satisfy the people. I know that among other mean arts which shew at once the weakness and malice of opposition, that of misrepresenting words spoken in this House is not the least. Words which I spoke myself in a former session, have been made ridiculous by misrepresentation; and when what was thus made ridiculous was laughed at, the public were told that they laughed at me. By such arts Socrates himself suffered, and from what he could not escape, I have no pretensions to be exempt: but I think myself now happy in speaking before a more numerous assembly than has been present at the opening of any other session, since I have had the honour of sitting in this House,

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because the more that hear me, the more witnesses will there be against falshood and detraction: I see also with pleasure a very respectable body of strangers, from whose candour I am confident of a patient hearing, and a fair report. The situation of ministry is always critical, and sometimes is more open to censure, merely by less deserving it. Many evils which may easily be prevented, are very hard to remove; if by early and effectual remedies they are prevented, it will be pretended that none were approaching; if their reality is too sensibly felt to be denied, it will be pretended that the remedy was neglected till it could not be effectually applied. If administration had disregarded the first notices that were given of the dreadful distemper that is now carrying off the cattle in a neighbouring state, and it had spread into this country for want of timely means to prevent it, a clamour would have been raised against them, and they would have been charged with a most criminal inattention to a most important concern. Now their vigilance and precaution have intercepted the mischief, it is pretended that no such distemper existed, and they are accused of forging the alarm, as a mere pretence for unduly extending the prerogative of the crown. Thus, a provident attention to prevent the people from wanting food, is distorted into a plot to deprive them of their liberty. There is, indeed, some difference between the charge that we have incurred, and that which we might have incurred by the other alternative. This is false, but that would have been true: in this we suffer alone, in that the public would have suffered with us; we hope still to suffer alone, and though every step is watched, and every artifice used to excite public clamour against us, we shall still use our utmost endeavours to do good to those that "hate us," as well as to those who in ignorance and innocence "despitefully use us."

Some gentlemen who spoke early in this debate, mentioned, among other subjects of reproach against administration, what they were pleased to call the desertion of Corsica; there was a time when I should have wondered at the folly and the effrontery of such an insinuation, but of late I have seen so many instances of both, that notwithstanding every man who now sits in this assembly knows, that the parliament left nothing for ministry to determine concerning that island, I do not wonder to hear the fate of it, even in this assembly, imputed to ministry as their act, and made a charge of treachery or weakness against them. You well know, Sir, and every gentleman present well knows, that the intention of the French to annex Corsica to their dominions, was laid before this House, that in this House the part we were to take in it was debated, and that in this House it was voted, almost unanimously, that Corsica was not an object of importance to Great Britain sufficiently to justify government in the risk of a war to preserve its independence. If any thing could aggravate a charge so shameless, so deliberately false and unjust, it is the conduct of administration with respect to Corsica after its fate had been determined here. Every other state, Sir, recognised to France the justice of this acquisition, but though she peremptorily required the same of Great Britain, the demand was treated with the contempt it deserved.

This fact also aggravates another charge against administration no less invidious than false, that they have by mean submissions endeavoured to keep off a war which we know at last to be inevitable, which we have encouraged our enemies to undertake by timidity, and made difficult to be sustained by oppression. This charge, happily for the accused, was urged with a pertinency that drew out an answer direct, full, and explicit, an answer which, when our adversary had clamorously demanded if all was fair, he could not deny to be a fair answer.

But it has been said, that the measures of the present ministry have been so arbitrary and corrupt, that they have alienated the affections of thirteen millions of faithful subjects from an amiable sovereign, and in order to blacken the servants of the crown a treasonable representation is given of disloyalty in the people, who, without excepting a single individual, are represented as ripe for a rebellion.

[Here colonel Barré stood up, and taking the allusion to himself, denied his having represented the affections of thirteen millions as alienated from their Sovereign. Lord North insisted upon the charge, and appealed to the House. Colonel Barré urged the extravagance of such an expression as a proof that he could not have made use of it; he said thirteen millions comprehended all his Majesty's subjects, and he could not mean all, as the court sycophants he had in his eye,

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must have struck him as an exception. The dispute whether the words were or were not said grew warm; colonel Barré persisted in denying them, and asked if any gentleman remembered them, or had taken them down; a member near him explained them, and another repeated them, exactly as from his notes. Colonel Barré then retracted his appeal, and had again recourse to his own assertions, saying his *ipse dixit* was as good as any man's, and being greatly moved, lord North dropped the dispute and proceeded.]

The charge of alienating the affections of the people from their Sovereign must come with a very ill grace from the leaders of opposition, who are incessantly labouring to persuade them that he does not deserve their affection, by speeches and writings beyond all example virulent and inflammatory; from those factious spirits, the only genuine mal-contents in the kingdom, who run from place to place, collect a crowd together, and abuse the credulous people by abusing alike his Majesty and his ministers. If his Majesty's subjects are disaffected, those trumpeters of sedition have produced the disaffection, and it is nothing more than the effect of their artifices that they retort as a reproach upon administration. The effect is, indeed, much less than they have contrived to make it appear: one of the new doctrines with which they have farther enlightened this enlightened age, is, that the right of electing and the right of petitioning are not personal rights, but rights annexed to their freeholds, every several freehold including one. But though it may be true that the possessor of ten freeholds may have ten votes, he is notwithstanding but one man, and though he may repeat his opinion in ten counties, it will still be but one opinion.

But not to insist that the same hand is never set to many petitions, gentlemen have urged the number of petitions themselves as a proof of the universality of discontent, but neither will this answer their purpose; that there should be in every county, some persons, or that there should be some persons who have freeholds in every county, that are not proof against the sophistry, influence, the promises, and the threats of a jealous and restless faction, governed by persons whose rank and fortune makes them not candidates only for places of the highest trust, profit, and honour, but clamorous pretenders to a right of monopolizing the King's favour, could not surely be thought strange, under the best and wisest administration that the world ever saw, or during the most general satisfaction and confidence of the people; it cannot therefore with any shew of reason be urged as a proof of bad measures in the present ministry, or a consequent general dissatisfaction. It is well known that by the exertion of such influence and such activity men have been induced to set their hands to petitions which they have never read, and give countenance to complaints which they never heard: but government is neither to be deceived nor over-awed by artifices like these. The servants of the crown may at least be supposed to perceive fallacies that are manifest to every man of common sense in the kingdom, and they owe too much to the dignity of their character, too much to their public trust, to suffer every blast of factious breath to drive the vessel which they steer from her port. They are, indeed, threatened with the fury of the multitude, and the drunken ragamuffins of a vociferous mob are exalted into equal importance with men of the coolest judgment, the best morals, and the greatest property in the kingdom. My worthy friend who was endeavouring to represent to this House a just and candid state of the different tempers and pursuits of the different classes of men among us, was abruptly stopped by a gentleman of the law, who affects to know no distinctions among Englishmen because they have common rights. I have as high a sense of the rights of Englishmen, as any gentleman in this House, yet I can never acquiesce in the absurd opinion that all men are equal, nor even pretend to level all distinction, and reduce the various classes into which the polity of civil life has divided the individuals of this kingdom, to a state of nature, for the sake of flattering my own vanity by a little popular applause. Were words that have been spoken in this House on one side, noticed with the same severity as words spoken on the other; and atonement exacted for the gross abuse that has been thrown out against the first characters in the kingdom, and the first stations in departments of the state, with the same spirit that dictated the reprehension of a very humble, though perhaps unguarded expression against the meanest of its enemies, some gentlemen whom I have now in my eye might tremble for their safety. Many who in less heinous times fell much short

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of their excess have slept in the Tower. The guilty and the mean are always cruel and vindictive, if the ministry therefore were the corrupt and grovelling thing which they have been represented, and if the members of this House were guilty of the baseness and venality with which they have been stigmatised, they would never have been insulted with impunity; the same conscious dignity and rectitude that makes slander pointless, makes it safe, and though just reproach may stimulate to revenge, groundless calumny excites no passion but pity. It is the glory of the present administration, that as they make no encroachments upon the rights of the people, they will suffer none upon the powers of the legislature. This House has hitherto possessed the sole power of judging in all cases respecting the rights of electing its own members, and this power, as it never ought, never shall be given up, till it is proved to be contrary to law; it has not yet been proved contrary to law, and therefore it remains.

As I would not let any thing slip by me unnoticed that has been urged in this day's debate, I must observe, that administration has been charged with inconsistency of conduct towards the people of America. The charge of inconsistency can, I think, never be made good against the present administration, except the acts of former administrations are imputed to them. Is it a fault of this ministry, that their predecessors did wrong, or that they do not continue implicitly to do the same? A people who were well enough satisfied with their own government, and who submitted without complaint to ours, have in consequence of various systems of various ministers wrought themselves up to such a pitch of opposition, that they are now impatient of all government, and not to be satisfied but by a total renunciation of all right in the legislature of this country to lay upon them any taxes for the support of government. Every lenient measure has been tried to bring them to a sense of their duty, and with the most refractory, it has been thought necessary to use force.

If both lenient measures and force have hitherto failed of the desired effects, is administration to be blamed? The contest which at first might easily have been ended, is now grown serious. It is now for no less than sovereignty on one side, and independence on the other. Will any minister dare to give up the sovereignty of this country over her colonies? Or will any minister venture to declare open war but upon the last extremity, to maintain that sovereignty? Administration have been blamed for the choice they have made of a governor to bring the Americans again to acquiesce in the system of British government, but in chusing a man of lord Bottetourt's known moderation, they have pointed out to all America how much they wish to avoid force, while any other means remain. If what I have now said is not deemed satisfactory, I am ready to meet the gentlemen who think differently upon their own ground. If they choose to appoint a day for further enquiry, I shall want no preparation to answer all they have to allege, but as at present there seems to be no necessity for precipitating matters, I am for no amendment.

Mr. *Edmund Burke*:

Sir; the noble lord who spoke last, after extending his right leg a full yard before his left, rolling his flaming eyes, and moving his ponderous frame, has at length opened his mouth. I was all attention. After these portents, I expected something still more awful and tremendous: I expected that the Tower would have been threatened in articulated thunder; but I have heard only a feeble remonstrance against violence and passion: when I expected the powers of destruction to "cry havoc, and let slip the dogs of war," an overblown bladder has burst, and nobody has been hurt by the crack. Metaphors might easily be multiplied upon this occasion, but I remember an old scholastic aphorism, that beings must not be multiplied without a necessity. The noble lord has lamentably bewailed the mischiefs that he has suffered from mean arts, which show at once the weakness and malice of his opposers: he says, that his words have been misrepresented, and his meaning perverted: and I am inclined to believe that, if any meaning at all has been imputed to him, the first part of the charge may be true; his own words have no meaning, and therefore their meaning cannot be perverted: if words have been imputed to him that have a meaning, he has certainly suffered wrong, and I hope that gentlemen will for the future, be more cautious how they commit such offences against ministers of state. I have this day watched his words with an honest solicitude to catch some that had a meaning, but the ideas they convey, are like

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those of a dream in the night, all incoherence and confusion.

He has told us, Sir, that the people have been persuaded there are grievances, by writing, meeting, and speaking; but if it is a fault to persuade by writing, meeting, and speaking, let him tell us what means of persuasion more eligible he has discovered. Writing, and meeting, and speaking, about grievances, do not make them: it has, indeed, been insinuated that our grievances are imaginary, because they are such as the peasants, or artificers of Yorkshire would not immediately feel, nor perhaps discover till they felt. But if those who see oppression in its distant though certain approach, if those who see the subversion of liberty in its cause are always few, does it follow that there never are approaches to oppression, or remote causes of the subversion of liberty? If the few who can and do discover effects in their causes open the eyes of others, if those who see the rights of election invaded in Middlesex, acquaint the graziers and clothiers of remote counties with their interest in the event and its consequences, are they, for that reason, leaders of a faction, actuated by personal and selfish views? If when all who are interested see their danger and seek redress, does it follow that they implicitly re-echo a causeless complaint? Or when redress is refused them, can it be pretended that they are well affected?

The ministers of the unhappy Charles the first told the same tales that are told now, and practised the same arts of delusion. When the people were ready to tear the crown from his head, they persuaded him that he was the idol of their hearts, that there was no discontent but among those who endeavoured to open his eyes; and that he had no enemies, but those who endeavoured to remove from his presence those who were bringing him to the block. He was soothed with this fatal falshood to his very dying hour, and he was weak enough to believe even upon the scaffold, that his affectionate people would not let him suffer.

But some of our ministerial gentlemen insist, that there are no grievances; others venture to deny that there are complaints. Those who admit that there are complaints, but deny that there are grievances, say, that the rabble, the base-born, the scum of the earth, are always discontented, and eagerly fasten upon any thing that is held up before them, as a justification of their discontent; the others deny that even this rabble, this scum of the earth is discontented; they have travelled the country through, and they find no discontent any where: both representations cannot be true, and it rests with these immaculate gentlemen to determine, by which they will abide. It matters, indeed, not much what they pretend; it is manifest that such counsel is given and such measures pursued, as cannot fail to destroy that confidence and harmony which should ever subsist between a prince and his people: military executions have been wantonly exercised and wickedly countenanced; murders have been abetted, and murderers protected, encouraged and rewarded: public money has been shamefully squandered, and no account given of millions that have been misapplied to the purposes of venality and corruption: obsolete and vexatious claims of the crown have been revived, with a view to influence the elections of members to sit in the House; the majority of one branch of the legislature have arrogantly assumed the power of the whole, and daringly superseded the law of the land by their resolutions; the humble petitions of the people to their gracious sovereign refused and discountenanced. The same baneful influence under which this country is governed, is extended to our fellow sufferers in America; the constitutional rights of Englishmen are invaded, and money raised upon the subject without his consent: whole legislative assemblies have been suspended, for no other reason than their having assented to unalienable rights of their constituents; British subjects in America have been threatened to be seized and brought to England, for crimes supposed to have been committed there: menaces have been used to intimidate the legislature of our provinces, and extort a compliance with ministerial requisitions that are altogether arbitrary and unjust: their admiralty courts are supported in the exercise of an oppressive power, by which the property of the subject is put into the hands of officers, who are interested in their condemnation; and now let me ask the most hardy of the ministerial hirelings, if there are no grievances.

At a time, Sir, when our taxes are higher than they have been at any former period, and trade every where declining, when our brethren in America are driven from the bosom of their mother country, to the arms of foreign nations, whom their

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commerce will strengthen and enrich, when in every part of our dominions, the best, the wisest, and the most moderate men are ready to forget their allegiance, these hardened profligates sit unmoved, and would gravely persuade us, that there are neither grievances, discontents, nor complaints! While the vessel of state is beaten by a storm that threatens destruction, they are neither in the distress, nor sensible of the danger: they do nothing either for those who trim the sails, nor for him that holds the helm, but stand, like horned cattle in the hold, torpid, and insensible to all the horrors that surround them. Are these the men that are selected to carry on the government of a great nation? Look round, and you will find them all of a class.

Whom have they selected in these perilous times to soothe the animosity, and reconcile the differences that now unhappily subsist between our colonies and the mother country? I need not name the man; every body knows him as a projector, as one who by wild and chimerical schemes, has not only so embarrassed his own affairs as to render his stay in this country impracticable, but brought irretrievable ruin upon many others. These are services which it was thought proper to reward; this is a character which administration determined to appropriate: the self banishment of this fugitive, therefore, was dignified with an honourable commission, and he that could no longer live in his own country, was made governor of another; he who brought his own affairs as a private individual into irremediable confusion is sent in a public character to superintend those of a numerous and commercial people. My worthy friend, Sir, obtained leave to read as a sample of this noble lord's abilities to execute his trust, part of his speech to the assembly of Virginia, I hope therefore that I shall be indulged in a like favour. "It adds greatly," says the house of burgesses in Virginia, "to our satisfaction and confidence, to hear from your excellency, that his Majesty's present administration, has at no time entertained a design of proposing to parliament the laying any farther taxes upon America for the purposes of raising a revenue, and we will not suffer our present hopes, arising from the pleasing prospect your lordship has so kindly opened and displayed to us, to be dashed by the bitter reflection that any future administration will entertain a wish to depart from the plan which affords the sincerest and most permanent foundation of public tranquillity and happiness: no, my lord, we are sure our most gracious sovereign, under whatever changes may happen in his confidential servants, will remain immutable in the ways of truth and justice, and that he is incapable of deceiving his faithful subjects; and we esteem your lordship's information, not only as warranted but even sanctified by the royal word." In answer to this address, says his lordship, "Your kind and affectionate address heightens my present, and fills me with the most delightful expectations of my fully answering the purposes of my royal master. May the Almighty secure to me that most desirable object, by directing your councils for the advantage and prosperity of all his Majesty's extensive dominions, and may you continue a loyal, free, and happy people, until time shall be no more!"

It is said, Sir, that the children of this world are wiser in their generation than the children of light; and if we judge of his lordship from his speech upon this principle, I think we must certainly conclude, that he is not a child of this world: it is somewhat unfortunate, that the same speech furnishes equal evidence that he is not one of the children of light. The address which in his lordship's opinion is both kind and affectionate, seems to have at least as much of the subtilty of the serpent, as the milkiness of the dove: it expresses hope and confidence in a manner that implies fear and distrust: his lordship, however, whether by his simplicity or his prudence, has taken it literally; what 'present' it was that this address heightened, cannot easily be guessed, perhaps he might mean his appointments, a present from the British ministry to British merit.

But whatever sense might be couched under this oracular obscurity, with respect to that which the address 'heightened,' there can be no doubt about what the address 'filled,' which is manifestly, no other than his lordship himself; what it filled him with, is also expressed with great clearness, elegance, and precision; it filled him with expectations of fully answering the purposes of his royal master, which must, as he says, be delightful expectations. Devotion has unfortunately been the common veil of pernicious designs, and I am sorry to say, that his lordship's conclusion of this speech with an

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ejaculation, as a parson does his sermon, put me in mind of the wag in the play, who follows an honest gentleman with "God bless and preserve your honour's worship," while he is slily picking his pocket. I hope his excellency will forgive me, but I shrewdly suspect that he had it in commission to make his American brethren slaves, while he was thus devoutly praying that they might be for ever free. I shall not now enquire into the right of Great Britain to tax her colonies, "all that is lawful is not expedient," and, I believe the inexpediency of taxing our colonies, even supposing it to be lawful, is now evident to every man in this kingdom. If by the same folly and infatuation which produced the mischief at first, it is now rendered irremediable, the grievance is not certainly the less, but the greater. It would be easy to shew that the tax upon America would have been inadequate to the purpose for which it was imposed, if every shilling of it had been levied; and the experiment has abundantly convinced us that this nation has lost, still loses, and must continue to lose a much greater annual sum than it would have amounted to by the non-exportation of goods that have already paid a duty for the purposes of a revenue to our colonies in America, which would otherwise have been consumed there.

The benefit of those that are governed is the ultimate end of all government, and not any supposed dignity of the governing power. It is very easy to discover what measures would now tend most to the general advantage both of the colonies and the mother country: and there can be no doubt but that these measures ought to be pursued, whatever mortification may ensue to the trustees of public power, who either weakly or wickedly have betrayed their charge. If the right of taxation should be waved, not to say given up, there is no reasonable pretence that the colonies will shake off their dependance: they will, even in that case, depend, at least in their own estimation, upon British government, as much as any British subject on this side the water, and all they contend for is, that this dependance shall not be more. There can be no doubt, but that our colonies think they do right in those very particulars in which we affect to think they do wrong; they think they are struggling for that liberty which we enjoy, while we charge them with an attempt to shake off the government to which we submit. The question is, in itself, doubtful; if that may be said to be doubtful, about which some of the wisest and best men in the kingdom, have formed opposite opinions; the consequences of remitting the duties are well known, as well as the consequences of continuing them; and I leave every disinterested and dispassionate man in the kingdom, to determine which is most eligible.

Our grievances, Sir, are indisputable, they are known to all Europe; and the eyes of all Europe are upon us this day, expecting that they should not have been passed over in silence: they have engaged their conversation, as well as our feelings, and when this hour of expected redress is at last arrived, how are we disappointed! how are we mortified! Instead of being regarded as persons capable of redressing public grievances, or guardians of the liberties of our electors, we are only recommended to suppress an infection now raging among the horned cattle, as if the members of this hon. House possessed only the qualification of cow doctors.

How shall we account for this strange proceeding? Cannot we perceive that this is the echo of a venal administration, who are at once daring and feeble, and who being practised in corruption, have fitted themselves for the worst purposes; who have been so hackneyed in all that is wicked and mean, that they have lost all sense both of virtue and honour, and are reduced to the last alternative, an impudent perseverance?

Lord *Barrington* defended the character of lord Botetourt, and concluded with saying, that he had not one enemy in America.

Mr. *George Grenville* spoke in favour of the Amendment.

Mr. Solicitor General *Dunning* also spoke for, and voted with, the minority.

Sir *William Meredith* observed, that one part of the Address, namely, thanking the King for his approbation of the conduct of the House, would be construed without doors, that the King approved the Resolutions of the House in respect to the Middlesex Election; whereas every endeavour should be used to keep him from being a party in the present disputes.

Mr. *Charles Fox* * observed, that from

* This is the first recorded parliamentary essay of the honourable Charles James Fox.

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the licence gentlemen had taken in their language that day, it seemed as if the old decent freedom of debate was at an end, and they were endeavouring to establish new forms: the expression in the Address did not allude to any particular measure of parliament, nor to every measure, as no one could suppose his Majesty approved of every resolution taken by the House, but only of the general tenor of their actions.

Mr. *Burke*, in answer, said, that it was not what the House meant, but how the people without doors would take it; however, he was very glad to hear that the House meant nothing by their Address.

At length the House divided on the proposed Amendment: Ayes 138—Noes 254.

List of the Minority.

Abdy, sir Anthony
Allen, Benjamin
Astley, sir Edward
Aubrey, John
Baker, William
Barré, Isaac
Barrow, Charles
Beauclerc, Aubrey
Bellasyse, lord
Bertie, captain
Bethell, Hugh
Blackett, sir Walter
Boulton, H. Crab
Brett, sir Piercy
Brickdale, Matthew
Buller, John, jun.
Burke, Edmund
Burke, William
Byng, George
Calcraft, J.
Calcraft, T.
Calvert, N.
Carnac, J.
Cavendish, lord G.
Cavendish, lord F.
Cavendish, lord J.
Cavendish, H.
Cholmondely, N.
Clarke, Godfrey
Clavering, sir Tho.
Clayton, sir Robert
Clive, George
Codrington, sir W.
Colebroke, sir Geo.
Cornwall, Ch. W.
Coxe, R. H.
Crosby, Brass
Coventry, Thomas
Damer, J. jun.
Damer, George
Davers, sir Charles
Dawkins, H.
Dempster, George
Delaval, George
Dowdeswell, Wm.
Downe, lord
Donegal, lord
Dunning, J.
Fitzmaurice, T.
Fletcher, sir Robert
Fletcher, H.
Foley, Thomas, jun.
Fuller, Richard
Glynn, serjeant
Goddard, W.
Granby, marquis of
Gregory, J.
Grenville, George
Grenville, H.
Grey, Booth
Griffin, sir J.
Grosvenor, Thomas
Hampden, Thomas
Hamilton, lord A.
Hamilton, W. G.
Harbord, Harbord
Hay, Thomas
Hobart, George
Honeywood, gen.
Hotham, B.
Howard, Thomas
Hussey, William
Hunt, George
Irwin, general
Keppel, admiral
Keppel, general
Ladbroke, sir Rob.
Laroche, J.
Lascelles, Daniel
Lascelles, Edward
Ludlow, lord
Luther, J.
Manners, George
Martin, Joseph
Mauger, J.
Mawbey, sir Joseph
Meredith, sir Wm.
Mills, Richard
Molesworth, sir J.
Molyneux, T. More
Musgrave, George
Norris, J.
Parker, J.
Pennant, R.
Phipps, captain
Pitt, Thomas
Plumer, Wm.
Popham, Edward
Popham, Alex.
Price, Chase
Pownall, Thomas
Ratcliffe, J.
Rushout, J.
Sackville, lord Geo.
St. Aubin, sir J.
St. Leger, A.
Salt, S.
Saville, sir George
Saunders, sir Ch.
Sawbridge, J.
Scawen, J.
Scrope, T.
Scudamore, J.
Seymour, H.
Skipwith, T. G.
Smith, J.
Stander, Frederic
Strachey, H.
Thomond, lord
Thornton, T.
Townsend, hon. T.
Townshend, T. jun.
Townshend, James
Trecothick, B.
Turner, Charles
Van Neck, G. W.
Verney, lord
Walsh, J.
Walsingham, B.
Waller, R.
Walter, John
Weddell, Wm.
West, J.
Whateley, T.
Whitworth, R.
Wray, sir Cecil
Willoughby, T.
Yorke, John

TELLERS.
Vincent, sir Francis
Montagu, Fred.

The Commons' Address of Thanks.] The Address was as follows:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, beg leave to return your Majesty our humble thanks for your most gracious Speech from the throne.

"We cannot but look upon it as a very serious misfortune, that, notwithstanding every precaution which could be used for preventing the communication of the infectious disorder among the horned cattle from foreign parts, that most alarming distemper appears to have again broke out in some parts of the kingdom: at the same time, we are truly sensible of your Majesty's paternal care and vigilance for the security of your people, in having given the earliest directions for every measure to be pursued, that might be most likely to give an immediate check to the first spreading of the infection; and we will not fail to take this most important matter into our immediate consideration; and to make such provisions as shall appear best calculated to carry into effectual and complete execution your Majesty's salutary intentions; and thereby, as far as by human means can be accomplished,

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to guard against the danger of of so great a calamity becoming general.

"Your faithful Commons have too just a sense of the blessings of peace, and feel with your Majesty too tender a concern for the ease of their fellow subjects, not to rejoice at the prospect which the assurances given by the other great powers of Europe afford to your Majesty, that the present disturbances will not extend to any part where the security, honour, or interest of this nation may make it necessary for your Majesty to become a party. We have the fullest confidence that your Majesty will never be unmindful of those important objects; and we observe, with great satisfaction, your Majesty's wise attention to the general interests of Europe, in your determination not to acknowledge any claims of any of the other powers of Europe, contrary to the limitations of the late treaties of peace.

"We sincerely lament, that your Majesty's endeavours to bring back your subjects in America to a just sense of their duty have hitherto proved so little successful. The state of your Majesty's government there does undoubtedly well deserve the serious attention of parliament; and no endeavours shall be wanting on our part, to make effectual provisions against the unwarrantable measures carried on in some of your Majesty's colonies, which are so irreconcilable to every principle of commercial subserviency to the interest of the mother country that ought to prevail in colonies, and which, by attempting to subject the highest legal authority to the controul of individuals, tend to subvert the foundation of all government.

"Your Majesty may be assured that we will, with the utmost cheerfulness and dispatch, grant the necessary supplies for the service of the current year.

"We acknowledge with the warmest gratitude, that the welfare of these kingdoms has been the constant object of your Majesty's wishes, and the unvaried rule of your actions. Permit us, Sir, at the same time, to offer to your Majesty our most dutiful thanks, for the favourable opinion which your Majesty is pleased to entertain of the conduct of your parliament; and to assure your Majesty, that we will steadily perseverve in such principles as are most agreeable to the true spirit of this free constitution, and invariably pursue such measures as are most conducive to the real happiness of the people.

"Earnestly desirous of justifying to all the world your Majesty's gracious declaration of your confidence in us, we will make it our study to avoid all heats and animosities, and to cultivate that harmony amongst ourselves, which, we are truly sensible, is at this time peculiarly necessary, to give weight to our deliberations, to establish the prosperity, and to maintain in its true lustre, the reputation of this country.

"And while we on our part are faithfully executing the trust reposed in us, by endeavouring to the utmost of our power to promote these good ends, we trust that all who live under this happy constitution will be convinced how indispensably it is their duty to pay that obedience to the laws, and just reverence to lawful authority, by which alone their own rights can be preserved, and the distinguished blessings which they enjoy above all other nations be rendered secure and permanent."

The King's Answer.] His Majesty returned this Answer:

"Gentlemen,

"I return you my sincere thanks, for your loyal and dutiful Address. I see with great pleasure, the continuance of that zeal and public spirit, which I have always experienced from my faithful Commons, in the assurances you give me of paying an early attention to the important objects recommended to your consideration. My interests and those of my people must ever be the same; and, in pursuing such measures as are most conducive to their real happiness, you will give to me the truest and most acceptable testimony of your attachment to my person and government."

Protest against a Motion for an Adjournment.] January 15. The Marquis of Rockingham gave notice that he had a motion of great importance to make, and moved, "That all the Lords be summoned on the 17th instant." Upon which, lord Weymouth moved to adjourn to the 22nd. Upon which a debate arose; and on a division, the adjournment was carried:

"Dissentient.'

"1. Because the noble lord, who moved the House, on Monday last, that the Lords should be summoned for Wednesday, had declared in his speech, that he meant, on that day, to make a motion, which, in its

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consequences, would afford the opportunity of bringing under consideration of the House, many matters of the most essential concern to the happiness of this country; and we think that this House ought not, at any time, to refuse the request of a peer, who desires that the House may be summoned upon a motion which he promises to make, and which he declares to be of importance. And we are the better warranted in this opinion, as we apprehend that, in fact, there are no instances of the House rejecting a motion for the Lords to be summoned.

"2. Because several lords in administration, being sensible of the indecency and novelty of directly rejecting such a motion, chose to get it rejected indirectly, by that parliamentary management of moving to adjourn to a long day; and we conceive such an artful conduct unworthy of a House of Parliament at any conjuncture; but to be particularly so in the present moment, when his Majesty, in his Speech, has recommended several matters of the most serious nature to our immediate consideration, and when the universal discontent of the nation (on account of certain arbitrary and illegal proceedings, whereby their most valuable rights are subverted) threatens some near and dangerous crisis.

"In this moment, and when the House has not sat one day, to do any other business than sending a complimentary address to the crown, when it had already adjourned for almost one week, to adjourn for another, will, we conceive, tend to damp the hopes of that relief for which the people do, and ought, in their present situation, to look up to this House; as it indicates an unwillingness to enter upon matters of the highest importance to the peace and welfare of the kingdom; affords a bad prognostic of the protection which this House owes to the rights and liberties of the subject, and shews, that we are more attentive to the conveniences of administration than to the real grievances of the people.

"3. Because, although no reason was alledged for this uncommon proceeding, one was hinted at of an extraordinary nature indeed, whereby we were made to understand that this delay of a week was necessary for administration to settle arrangements relative to an office which was so closely connected with this House, that it could not sit without the officer.

"It is difficult for us to give our sentiments upon a matter which the lord who mentioned it, though called upon, refused to explain. But when we reflect that this hint came from a noble lord in high and confidential office, we think it could have alluded only to the removal of the Lord High Chancellor of England, the Speaker of this House;* and when we recollect

* "The seal was taken from lord Camden, and offered to Mr. Yorke, who had twice filled the office of Attorney General with the greatest reputation for talents and integrity. The unsettled state of parties, and the gloomy complexion of affairs, naturally occasioned him to feel considerable reluctance at undertaking the high office to which he was called, at that particular time. Nothing probably could have overcome his repugnance, but the earnest manner in which his acceptance of the great seal was pressed upon him, by the King himself, as most essential to his service. Thus urged, Mr. Yorke determined to obey the commands of his Sovereign, without reversionary conditions of stipulations. He was immediately raised to the peerage by the title of baron Morden, of Morden in Cambridgeshire, an honour he did not live to possess, as the patent was not completed before his death, which occurred three days after he had received the great seal.

"Mr. Charles Yorke, second son of Philip, first earl of Hardwicke, was born in 1723. He had studied the laws and constitution of his country, and their application to the science of politics, in the best school of the age; he was no less eminent at the bar than in the estimation of the most enlightened statesmen. His extensive literary acquirements, his great abilities, and the integrity of his character, were well known and universally respected. He was appointed solicitor general in 1756, and while he held the important office of attorney general, was deservedly high in the confidence of the administration, and of his country. His probable elevation to the dignity of chancellor had been long contemplated with hope and expectation by the public, and consequently his death was considered highly prejudicial to the interests of the nation, as, had he lived, a more firm and comprehensive system of administration might have been formed, and more conciliatory measures adopted toward the American colonies.

"After the death of Mr. Yorke, the great seal was offered to sir Eardley Wilmot, and to lord Mansfield, but both declining, it was put in commission, and lord Mansfield was appointed speaker of the House of Lords till there should be another chancellor.

"The removal of lord Camden was followed by several resignations; the marquis of Granby gave up all his places except the regiment of blues; the duke of Beaufort vacated his situation of master of the horse to the Queen; the duke of Manchester and the earl of Coventry

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the part, so honourable to himself, but perhaps so offensive to administration, which that noble lord had taken the first day of this session, we cannot but be apprehensive that there may be some evil counsellor hardy enough to attempt punishments for freedom of debate in parliament, and to dare advise his Majesty to remove from his office a peer of this House at the head of the law for his vote in parliament. *(Signed)* Richmond, Scarborough, Fortescue, Fitzwilliam, Manchester, Rockingham, Portland, Wycombe, Temple, Albemarle, Bolton."

Illness of the Speaker, Sir John Cust.] January 17. Mr. Hatsell, the Clerk, informed the House, that Mr. Speaker was taken ill, and so much out of order that it was impossible for him to attend the service of the House: that Mr. Speaker had sent for him into his bed-chamber about an hour ago, and desired him to express, in the most grateful terms, his dutiful acknowledgement to the House, of the great kindness they had always shewn him, and the assistance they had given him in the execution of his office: that he was extremely sorry that the public business should meet with any delay upon his account, but that he found himself so very ill, and the nature of his complaint such, as to make it impossible for him to ascertain when he should be again able to attend his duty: that he therefore, with great concern, must intreat the House to excuse him at present from any further attendance on their service: that Mr. Speaker would have written a letter to have made his excuses to the House, but was unable, from the state of weakness he was in: that he therefore repeatedly desired the Clerk to express his dutiful thanks to the House for their kind acceptance of his former services, and his great concern that his state of health should be the cause of the least interruption to the business of the public.

After the delivery of the said message, and before any member spoke, the mace was brought into the House by the Serjeant, and laid under the table.

Lord *North* then acquainted the House, that there had been no opportunity of informing his Majesty of Mr. Speaker's illness; and therefore moved to adjourn till Monday.

After a short debate, whether the House should adjourn to Monday or only to Friday next, the Clerk (to whom all that spoke directed themselves, according to former practice) by order of the House, put the question for adjourning till Monday.

Sir Fletcher Norton chosen Speaker.] January 22.* Mr. Serjeant came, and brought the mace, and laid it under the table.

Then Lord *Barrington* (addressing himself to the Clerk, who, standing up, pointed to him, and then sat down) spake as followeth:

Mr. Hatsell;

I am commanded by the King to inform this House, that sir John Cust hath sent him word, that he is prevented by indisposition attending the service of the House as Speaker; and I am further commanded by his Majesty to say, that in order that there may be no delay in public business, he gives leave to this House to proceed to the Choice of a new Speaker.

After the delivery of which Message to the House,

Lord *North* stood up, and addressing himself in like manner to the Clerk, said:†

Mr. Hatsell;

It is impossible for me to see that Chair empty, without regretting the loss of our late member, who so worthily filled it.‡ Not to praise the virtues of the dead is to

renounced their posts as lords of the bedchamber; the earl of Huntingdon his place of groom of the stole; and Mr. James Grenville his office of one of the vice-treasurers of Ireland. Mr. Dunning, the solicitor general, also resigned." Adolphus.

* Sir John Cust died on the morning of this day.

† From the Gentleman's Magazine. The Speeches upon sir Fletcher Norton being chosen Speaker have not been preserved in the Journals.

‡ Mr. Edward Moore, one of the gentlemen appointed to compile the General Index to the Journals of the House of Commons, pays the following affectionate tribute to the memory of sir John Cust:

"Having mentioned sir John Cust, as one of these distinguished Speakers, I cannot but lament my inability to do justice to his respectable character. I should, indeed, be able to do that justice, if I could relate, with accuracy, what lord North said of him, with equal eloquence and truth, when he proposed his suc-

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neglect our duty to the living; it is to with-hold from them the noblest and strongest incitements to public and private merit, the hope of being remembered with honour, and producing virtue in others, not only by their example, but their fame. Our late Speaker was in every respect qualified for his high office: he had a minute and habitual knowledge of all the forms and rules by which the proceedings in this House are regulated, and in the preserving and enforcing of which a considerable part of his office consisted: he attended our deliberations with the utmost punctuality, and applied to public business with unwearied diligence; his abilities were such as enabled him to discover what was his duty in every situation, and his integrity such as constantly fulfilled it. He had an impartiality which knew no distinction of party, no private interest, no ties of blood, no attachments of friendship: but he had a constitution by no means equal to the vigour of his mind, or the ardour of his zeal. The fatigue which he willingly endured, was more than he was able to sustain; and the disorder which terminated in his death, was brought on by too assiduous an application to the discharge of his trust.

To succeed a person of such abilities and reputation, in an office so difficult and so laborious, can be no very desirable thing. He who shall fill the Chair that is now vacant, whatever be his ability or integrity, however diligent his attendance, however vigorous his constitution, will by no means find it a bed of roses. He may be at once clamorously called upon for opposite purposes; his ability may be questioned by the weak, and his knowledge by the ignorant: his partiality, instead of recommending him to opposite parties, will by turns give offence to them all, and whatever be his deserts, he must probably wait for his reward till it is too late to enjoy it. I know not therefore, whether to recommend a person to the place be the office of a friend, or an enemy: such a recommendation should not, indeed, proceed either from enmity or friendship for the individual, but wholly from a regard to this House and the public, to whom it is of importance that it should be well filled: with this view, then, I will venture to recommend the right hon. sir Fletcher Norton. That he has abilities and temper, I think, nobody will deny; and that he has integrity, there is no reason to doubt; these qualifications will secure the public; and, I think, he has strength of constitution that will secure himself.

The Right Hon. *Richard Rigby*:

Mr. Hatsell;

I most heartily second the motion of the noble lord, and think that sir Fletcher Norton is peculiarly marked out for the place, by his superior knowledge of the law: who can gentlemen of this House apply to better, than to one, who has been so long applied to without doors, in the most difficult and critical cases, and whose opinion has so often precluded suits at law and equity, where the property in question has been very considerable? I think this knowledge must be considered by every gentleman present, as a most important qualification. I am not igno-

cessor to the House, on the 22d of January 1770. On that occasion, his lordship, who had long sat in parliament with him, and had been a witness to his conduct, expressed, in pathetic terms, his sense of the misfortune to the House, and to the public, in being deprived of so valuable a guardian of their laws and liberties. I had the melancholy satisfaction to hear that speech, and well remember that lord North, with great ability, energy and affection, recounted his virtues and many amiable qualities, in a manner that reflected as much honour to himself, as he nobly meant to give to sir John Cust: his lordship mentioned him as a Speaker whose knowledge of parliamentary business, and of the history and constitution of his country; whose unwearied and strict attention to all the duties of his office; whose indefatigable pains in examining all the private bills, upon which the interest and happiness of so many individuals depended; whose unshaken integrity, steady impartiality in every thing, and respect to every body; whose readiness to instruct, tenderness and indulgence towards all, and particularly the younger members of the House, had made him the favourite of that House of Commons in which he presided, beloved by his sovereign, and honoured and respected by the whole kingdom.

"As the speech, of which I have given but a faint and imperfect sketch, is not inserted in the Journals, I have endeavoured, from my own recollection, to supply a blank, which can never be filled up completely, without an authentic copy of the noble lord's eulogium. The motives to my endeavours are, a most grateful sense of the many favours which I received from sir John Cust, and an affectionate regard for his memory. Though I am sensible that no tribute from me can add any lustre to those virtues, which adorned his character while he lived, and from which his family have derived the highest honour since his death."

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rant of the qualifications of other gentlemen, nor unwilling to acknowledge them, but I think I may without offence, say, that in this particular, the gentleman who has been proposed is at least equal to any. I readily agree with the hon. gentleman in his sentiments of our late Speaker; no man applied with more constant diligence, and few men were less equal to the fatigue. Sir Fletcher is happy in a constitution of body, equal to the vigour and activity of his mind; so that by a choice of him, we may secure a very important service to the public, without the sacrifice of a valuable individual.

Lord *John Cavendish*:

Mr. Hatsell;

Without derogating from the merit of the gentleman who has been already proposed to succeed our late Speaker, I will venture to recommend another, who is an utter stranger to my intention: he has parts, temper and constitution; and he has besides the principle of common honesty, which would prevent him from doing wrong, a principle of nice honour, which will always urge him to do right. By honour I do not mean a fashionable mistaken principle, which would only lead a man to court popular reputation, and avoid popular disgrace, whether the opinion upon which they are founded is false or true; whether the conduct which they require is in itself just or unjust, or its consequences hurtful, or beneficial to mankind. I mean a quality which is not satisfied with doing right, when it is merely the alternative of wrong, which prompts a man to do what he might lawfully and honestly leave undone; which distinguishes a thousand different shades, in what is generally denominated the same colour, and is as much superior to a mere conformity to prescribed rules, as forgiving a debt is to paying what we owe. This quality was very conspicuous in our late worthy Speaker, sir John Cust, and it is certainly of great importance that they should be equally conspicuous in his successor: I therefore take the liberty to name to the House, the right hon. Thomas Townshend, junior.

Lord *George Sackville*:

Mr. Hatsell;

I beg leave to second the noble lord's motion. Mr. Townshend, while the other gentleman has been practising in the courts below, has been learning business of a superior kind, the business of the nation and this House. I will not say, that persons in a certain walk of life, have notions of right and wrong superior to those of others, or that a nice sense of the right and wrong of honour is worn off, by a constant and interested attention to the right and wrong of law: there have been men of honour, in the true sense of the word, in every situation; but it is no disgrace to any man not to know, what he has had no opportunity to learn: if I was to chuse, or to vote for the Speaker of a Bench in another place, I do not know any whom I should prefer to sir Fletcher Norton; but placing a person in that chair as Speaker of this House, is another object. It is with great pleasure that I hear justice done to the merits of the gentleman, whose loss we are endeavouring to supply; and upon this occasion I may be permitted to observe, that he was not much acquainted with the practice of the courts: as he was notwithstanding in every respect equal to his office, it may fairly be inferred, that much acquaintance with the practice of the courts below, is not a necessary qualification for it. Forms of practice are things very different from rules of right. It does not, therefore, seem to follow, that a gentleman, whose opinion has precluded suits in law and equity, is therefore qualified to regulate the proceedings of this House; a man may be well acquainted with the face of a country, and its divisions as laid down in a map, without knowing a step of the road to a single market town: and he that has been used to travel the turnpike-road in journies of business, may be less acquainted with the shorter cuts through parks, forests, and privileged places, than those whose situation and connections have admitted them to the chase, which is regulated by rules very different from paying toll at a turnpike, and bills at an inn. Upon the whole, I should think a minute acquaintance with the practice of courts of law, rather a disqualification, than qualification for the Chair in this House.

Sir *Fletcher Norton*:

"I rise up to acknowledge my obligations to the friend who sits opposite to me, and to another on my left hand, for the very favourable opinion which they have entertained and professed for my poor abilities. I must also acknowledge the force of what has been objected to me, on ac-

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count of my profession; I have, indeed, been bred to a laborious employment, the law; and I have followed it with great, very great assiduity for more than forty years; it has, therefore, in some measure engrossed my attention, and circumscribed my experience; but though my time has been much taken up by the courts below, I am not altogether a stranger to this House; I have sometimes been brought hither in the course of my profession, and it is well known, that I have sometimes had the honour of being called up to give my opinion upon solemn and important occasions. But though I am not willing to be thought wholly unworthy of the honour for which I have been proposed, yet I am conscious, that I owe much to the partiality of my friends, who have supposed me to be in every respect equal to it: it is an honour which I have not solicited, as I would neither assume a merit which might claim it, nor seek that by favour which I could not claim. I see many gentlemen round me, who, I am sure, would fill the vacant seat with the greatest credit to themselves, and advantage to the House, and whom I would by no means preclude; if, however, after all, it shall be the determination of the House to confer a post of such trust and dignity upon me, I will most certainly accept it, considering a right intention, as the best preservative against wrong conduct.

"It has been objected to me, that my knowledge of the law, has not acquainted me with the rules and orders of the House; but that on the contrary, my long and constant attendance on the courts below, has deprived me of opportunities, which I might otherwise have improved for acquiring this qualification. I should ill deserve the confidence which it has been proposed to place in me, if I denied the justice of this charge: I make no pretensions to an exact knowledge of these rules and orders; they are much too numerous for my opportunities, and I had almost said, too trivial for my attention: I know enough of them, to think them beneath the regard of an august and legislative assembly, in deliberations that regard the safety, the peace, and the prosperity of a great nation: such an assembly should disdain the trifling formalities which have been contrived to give importance, where all other importance is wanting; which constitute what is called the etiquette of a court, whose very essence is form, and fall properly under the cognizance of a gentleman usher, or master of the ceremonies, but are by no means worthy either of this House, or its Speaker. I shall however consider whatever appears of importance to this House as an object worthy of my pursuit, and endeavour to learn whatever I find myself unacquainted with, as far as it appears necessary to the discharge of my trust. That it is good to walk with a horse in one's hand, is a trite proverb, but a good one: it is often fit to have that in our power which we do not use, and I shall therefore make the rules and orders of this House, however numerous, or however trifling, my study, if, under much more considerable disadvantages, I shall be thought worthy of your choice. For two things I can engage, without arrogating any other merit or qualification, than God has put equally into the power of all mankind; if I shall be put into the vacant Chair, and find myself qualified, I will fill it like an honest man; and if when I am seated there, I find myself unqualified, I will leave it like an honest man."

Mr. *Thomas Townshend:*

I had not the least knowledge or expectation of being proposed for the vacant Chair; I most sincerely thank my friend for so flattering a testimony of his partiality in my favour; but I am equally unfit for the duties, and unworthy of the honour of such a situation.

Several members spoke in the debate on each side; among others for Mr. Townshend were Mr. Montagu and Mr. Edmund Burke.

The question was then put by the Clerk,

"That the right hon. sir Fletcher Norton do take the Chair of this House as Speaker."—The Clerk declared the Yeas had it. The House was divided. The Yeas on the right hand: the Noes on the left. The Tellers were appointed by the Clerk; viz.

For the Yeas, (Dr. William Burrell) 237—For the Noes, (Mr. Hotham) 121.

So it was resolved in the affirmative.

Whereupon sir Fletcher Norton was conducted to the Chair by Lord North and Mr. Rigby. Where being placed, he expressed himself truly sensible of the high honour the House had been pleased to confer upon him. And then the mace was laid upon the table.

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Afterward Lord *Barrington* spoke as follows:

Mr. Speaker; his Majesty hath commanded me to inform this House, that it is his Majesty's pleasure, that this House should present their Speaker to his Majesty to-morrow at one o'clock at noon, in the House of Peers, for his royal approbation.

Then Mr. Speaker elect put the question for adjourning the House till to-morrow morning, ten of the clock; which being agreed to, the House was adjourned accordingly; and Mr. Speaker elect went away without the mace before him.

January 23. A Message from his Majesty by sir Francis Molyneux, gentleman usher of the Black Rod:

"Mr. Speaker, the King commands this honourable House to attend his Majesty immediately in the House of Peers."

Accordingly Mr. Speaker elect, with the House, went up to attend his Majesty in the House of Peers; where Mr. Speaker elect was presented to his Majesty for his royal approbation:

Then the right hon. William lord Mansfield, lord chief justice of his Majesty's Court of King's-bench, and Speaker of the House of Peers, after receiving directions from his Majesty, signified his Majesty's approbation of Mr. Speaker elect.

The House being returned,

Mr. Speaker reported, that the House had attended his Majesty in the House of Peers; where his Majesty was pleased to approve the choice they had made of him to be their Speaker.

And then Mr. Speaker again thanked the House for the honour they had done him, begged their assistance and support in the discharge of the duty of his office, and assured them he would conduct himself with the strictest impartiality, and endeavour to supply, by assiduity and diligence, what he wanted in experience and abilities.

Debate in the Lords on the State of the Nation.]* January 22. The Marquis of *Rockingham* rose, and moved, "That this House will take into consideration the State of the Nation on Thursday, the 24th instant. The object of his lordship's speech was to shew that the present unhappy condition of affairs, and the universal discontent of the people, did not arise from any immediate temporary cause, but had grown upon us by degrees, from the moment of his Majesty's accession to the throne. That the persons, in whom his Majesty then confided, had introduced a total change in the old system of English government—that they had adopted a maxim, which must prove fatal to the liberties of this country, viz. "That "the royal prerogative alone was sufficient "to support government, to whatever "hands the administration should be com-"mitted;" and he could trace the operation of this principle through every act of government since the accession, in which those persons could be supposed to have any influence. Their first exertion of the prerogative was to make a peace contrary to the wishes of the nation, and on terms totally disproportioned to the successes of the war; but, as they felt themselves unequal to the conduct of a war, they thought a peace, on any conditions, necessary for their own security and permanence in administration. He then took notice of those odious tyrannical acts of power, by which an approbation of the peace had been obtained. And he mentioned the general sweep through every branch and department of administration: the removes not merely confined to the higher employments, but carried down, with the minutest cruelty, to the lowest offices of the state; and numberless innocent families, which had subsisted on salaries from 50 to 200*l.* a year, turned out to misery and ruin, with as little regard to the rules of justice, as to the common feelings of compassion. That their ideas of taxation were marked by the same principle. The argument urged for taxing the cyder counties, viz. "The equity of placing them on the same footing with others, where malt liquors were chiefly used," was too obvious to escape the attention of former ministers; but former ministers paid more regard to the liberties of the people, than to the improvement of the revenue. That the object of the Cyder Act, or the effect of it at least, was not so much to increase the revenue, as to extend the laws of excise, and open the doors of private men to the officers of the crown.

Without entering into the right of taxing America, it was evident that, since

* This debate is printed from the Notes of the gentleman mentioned in p. 647, and has been revised by him for this work. [A. D. 1813.]

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the revenue expected to arise from that measure was allowed to be very inconsiderable, the real purpose of government must have been to increase the number of their officers in that country, and consequently the strength of the prerogative.

He then took notice of the indecent manner, with which the debt upon the King's civil list had been laid before, and provided for, by parliament. No account offered—no enquiry permitted to be made—not even the decent satisfaction given to parliament of an assurance that in future such extraordinary expences should be avoided. On the contrary, the King's speech on that occasion had been so cautiously worded that, far from engaging to avoid such exceedings for the future, it intimated plainly that the expences of the King's civil government could not be confined within the revenue granted by parliament. That as the nation was heavily burthened by the expence, they were no less grossly insulted by the manner in which that burthen was laid upon them. That, in certain grants lately made by the crown, the ministry had adhered to their principle of carrying the prerogative to its utmost extent. No right of property, no continuance of possession had been considered. But, if these had been weaker than they were, he thought some respect was due to the memory of the great prince by whom these grants had been made; and, in common justice to the noble duke, [of Portland] whose property had been invaded, the ministry should, at least, have avoided that hurry and precipitation, which had hardly left his grace time to defend his rights; and by which the ministry themselves seemed to confess their measures would not bear a more deliberate mode of proceeding. But the purposes of an election were to be served; and the person, benefited by this measure, was supposed to be a better friend to administration than the noble duke, whose property had been arbitrarily transferred to another. And when, upon occasion of this extraordinary measure, and to quiet the minds of the people, a bill had been brought into parliament for securing the property of the subject, it had been rejected the first year, and violently resisted the second; but the justice and necessity of it had prevailed over the influence and favourite maxims of the administration. That the affairs of the external part of the empire had been managed with the same want of wisdom, and had been brought into nearly the same condition with those at home. In Ireland, he saw the parliament prorogued, (which probably led to a dissolution) and the affairs of that kingdom left unprovided for, and in the greatest confusion. That in America measures of violence had been adopted, and it had been the uniform language and doctrine of the ministry to force that country to submit. That, in his own opinion, violence would not do there, and he hoped it would not do here. But even if a plan of force were advisable, why had it not been adhered to? Why did they not adopt and abide by some one system of conduct? That the King's speeches and the language of the ministry at home had denounced nothing but war and vengeance against a rebellious people, whilst his Majesty's governors abroad were instructed to convey to them the gentlest promises of relief and satisfaction. His lordship here referred to lord Botetourt's speech to the assembly of Virginia, in May 1769, out of which he recited a passage in point. The passage was this—"I think myself peculiarly fortunate to be able to inform you, that by a letter, dated May the 13th, I have been assured by the earl of Hillsborough, that his Majesty's present administration have at no time entertained a design to propose to parliament to lay any further taxes upon America for the purpose of raising a revenue, and that it is their intention to propose, in the next session of parliament, to take off the duties upon glass, paper, and colours, upon consideration of such duties having been laid contrary to the true principles of commerce."

With respect to foreign affairs, he thought it highly necessary to enquire, why France had been permitted to make so considerable an acquisition as the island of Corsica? That no man could deny, that this island would prove a great addition to the strength of France, with respect to her marine; both from its harbours, and the timber it produced. He thought this attempt of France was not only unjust in itself, but directly contrary to certain stipulations in the treaty of Aix-la-Chapelle, confirmed by that of 1763, by which it was determined and settled, "That the republic of Genoa should be entirely re-established and maintained in all its former states and possessions; and that, for the advantage and maintenance of the peace in general, for the tranquil-

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lity of Italy in particular, all things should remain there in the condition they were in before the war."

His lordship added, That he had not dwelt so strongly as he might have done, upon that great invasion of the constitution, which had now thrown this whole country into a flame: the people were sufficiently alarmed for their rights, and he did not doubt but that matter would be duly enquired into. But he considered it only as the point to which all the other measures of the administration had tended. That when the constitution was violated, we should not content ourselves with repairing the single breach, but look back into the causes, and trace the principles which had produced it, in order, not merely to restore the constitution to present health, but, if possible, make it invulnerable hereafter.

Upon the whole, he recommended it strongly to their lordships, to fix an early day for taking into their consideration the state of this country in all its relations and dependencies, foreign, provincial, and domestic; for we had been injured in them all. That consideration would, he hoped, lead their lordships to advise the crown not only how to correct past errors, but how to establish a system of government more wise, more permanent, better suited to the genius of the people, and, at least, consistent with the spirit of the constitution.

The Duke of *Grafton*, who spoke next, did not oppose the motion; on the contrary, he engaged to second it, and to meet the noble lord on the great question whenever the House should think proper. For the present, he meant only to exculpate himself from some severe reflections, which he thought were directed particularly and personally against himself. That he was ready to justify the measures alluded to by the noble lord, about every other part of his conduct; and he did not doubt of being able to do so to the satisfaction of the House. That the resumption, made by the commissioners of the treasury, of a supposed grant of the crown land, had been most unfairly represented. He wished the noble lord, instead of the word 'property,' had only used 'possession;' and then he would have truly described the fact and the object. That, on the application made to the board by the person who had discovered the defect in the noble duke's title, he could not consistently with his duty, as an officer of the crown, have rejected the claim made by that person. That if the noble duke, instead of being an opponent, had been the warmest friend of administration, the treasury board could not have acted otherwise than they did, without a flagrant violation of justice; and as for that hurry and precipitation of which they were accused, he took upon him to contradict the noble lord in the most positive manner, and offered to prove at the bar of that House, that they had proceeded, not only with temper and deliberation, but with the utmost attention to the interests of the noble duke, and every possible mark of respect to his person; and had protracted their decision to the very last moment allowed by the rules of the board. With respect to the debt on the civil list, he neither had, nor could have any personal motives for wishing to conceal from parliament the particulars of the extraordinary expences, by which that debt had been incurred. That the persons, to whose offices it belonged, had been constantly employed in drawing up a state of that account, and that they had received every possible light and information from the officers of the crown, in order to shorten and facilitate the business: but it was a work of infinite labour and extent; and, notwithstanding the utmost diligence in the several public offices, could not yet be completed.

That in regard to foreign affairs, he believed the conduct of the King's ministers would bear the strictest examination, and would be found irreproachable. That, for his own part, he had never thought, nor had he ever affirmed, that the conditions of the late peace were such as the people had a right to expect. He had maintained that opinion in former times, and no change of situation should ever induce him to relinquish it. But that the peace being once made, and those advantages, which we might have expected from a continuance of the war being now irrecoverable, he would never advise the King to engage in another war, as long as the dignity of the crown and the real interests of the nation could be preserved without it. That what we had suffered already by foreign connections ought to warn us against engaging lightly in quarrels, in which we had no immediate concern, and to which we might probably sacrifice our own most essential interests.

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The Earl of *Chatham:*

My lords, I meant to have risen immediately to second the motion made by the noble lord. The charge, which the noble duke seemed to think affected himself particularly, did undoubtedly demand an early answer; it was proper he should speak before me, and I am as ready as any man to applaud the decency and propriety with which he has expressed himself.

I entirely agree with the noble lord, both in the necessity of your lordships concurring with the motion, and in the principles and arguments by which he has very judiciously supported it. I see clearly, that the complexion of our government has been materially altered; and I can trace the origin of the alteration up to a period, which ought to have been an æra of happiness and prosperity to this country.

My lords, I shall give you my reasons for concurring with the motion, not methodically, but as they occur to my mind. I may wander, perhaps, from the exact parliamentary debate; but I hope I shall say nothing but what may deserve your attention, and what, if not strictly proper at present, would be fit to be said, when the state of the nation shall come to be considered. My uncertain state of health must plead my excuse. I am now in some pain, and very probably may not be able to attend my duty when I desire it most, in this House. I thank God, my lords, for having thus long preserved so inconsiderable a being as I am, to take a part on this great occasion, and to contribute my endeavours, such as they are, to restore, to save, to confirm the constitution.

My lords, I need not look abroad for grievances. The grand capital mischief is fixed at home. It corrupts the very foundation of our political existence, and preys on the vitals of the state.—The constitution has been grossly violated—The constitution at this moment stands violated. Until that wound be healed, until that grievance be redressed, it is in vain to recommend union to parliament; in vain to promote concord among the people. If we mean seriously to unite the nation within itself, we must convince them that their complaints are regarded, that their inquiries shall be redressed. On that foundation I would take the lead in recommending peace and harmony to the people. On any other, I would never wish to see them united again. If the breach in the constitution be effectually repaired, the people will of themselves return to a state of tranquillity—If not—may discord prevail for ever! I know to what point this doctrine and this language will appear directed. But I feel the principles of an Englishman, and I utter them without apprehension or reserve. The crisis is indeed alarming; so much the more does it require a prudent relaxation on the part of government. If the King's servants will not permit a constitutional question to be decided, according to the forms, and on the principles of the constitution, it must then be decided in some other manner; and rather than it should be given up, rather than the nation should surrender their birth-right to a despotic minister, I hope, my lords, old as I am, I shall see the question brought to issue, and fairly tried between the people and the government. My lord, this is not the language of faction; let it be tried by that criterion, by which alone we can distinguish what is factious, from what is not—by the principles of the English constitution. I have been bred up in these principles; and know that, when the liberty of the subject is invaded and all redress denied him, resistance is justified. If I had a doubt on the matter, I should follow the example set us by the reverend bench, with whom I believe it is a maxim, when any doubt in point of faith arises, or any question of controversy is started, to appeal at once to the great source and evidence of our religion—I mean the Holy Bible: the constitution has its political bible, by which, if it be fairly consulted, every political question may and ought to be determined. Magna Charta, the Petition of Right, and the Bill of Rights, form that code, which I call the Bible of the English Constitution. Had some of his Majesty's unhappy predecessors trusted less to the comments of their ministers, had they been better read in the text itself, the glorious Revolution would have remained only possible in theory, and would not now have existed on record a formidable example to their successors.

My lords, I cannot agree with the noble duke, that nothing less than an immediate attack on the honour or interest of this nation can authorise us to interpose in defence of weaker states, and in stopping the enterprizes of an ambitious neighbour. Whenever that narrow, selfish po-

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licy has prevailed in our councils, we have constantly experienced the fatal effects of it. By suffering our natural enemies to oppress the powers less able than we are to make a resistance, we have permitted them to increase their strength, we have lost the most favourable opportunities of opposing them with success; and found ourselves at last obliged to run every hazard in making that cause our own, in which we were not wise enough to take part, while the expence and danger might have been supported by others. With respect to Corsica I shall only say, that France has obtained a more useful and important acquisition in one pacific campaign, than in any of her belligerent campaigns: at least while I had the honour of administering the war against her. The word may, perhaps, be thought singular: I mean only while I was the minister, chiefly entrusted with the conduct of the war. I remember, my lords, the time when Lorrain was united to the crown of France, that too was, in some measure, a pacific conquest; and there were people who talked of it, as the noble duke now speaks of Corsica. France was permitted to take and keep possession of a noble province; and, according to his grace's ideas, we did right in not opposing it. The effect of these acquisitions, is, I confess, not immediate; but they unite with the main body by degrees, and, in time, make a part of the national strength. I fear, my lords, it is too much the temper of this country to be insensible of the approach of danger, until it comes with accumulated terror upon us.

My lords, the condition of his Majesty's affairs in Ireland, and the state of that kingdom within itself, will undoubtedly make a very material part of your lordships' enquiry. I am not sufficiently informed to enter into the subject so fully as I could wish; but by what appears to the public, and from my own observation, I confess I cannot give the ministry much credit for the spirit or prudence of their conduct. I see that, even where their measures are well chosen, they are incapable of carrying them through without some unhappy mixture of weakness or imprudence. They are incapable of doing entirely right. My lords, I do, from my conscience, and from the best weighed principles of my understanding, applaud the augmentation of the army. As a military plan, I believe it has been judiciously arranged. In a political view, I am convinced it was for the welfare, for the safety of the whole empire. But, my lords, with all these advantages, with all these recommendations, if I had the honour of advising his Majesty, I would never have consented to his accepting the augmentation, with that absurd dishonourable condition, which the ministry have submitted to annex to it. My lords, I revere the just prerogative of the crown, and would contend for it as warmly as for the rights of the people. They are linked together, and naturally support each other. I would not touch a feather of the prerogative. The expression, perhaps, is too light; but, since I have made use of it, let me add, that the intire command and power of directing the local disposition of the army is to the royal prerogative, as the master feather in the eagle's wing; and if I were permitted to carry the allusion a little farther, I would say, they have disarmed the imperial bird, the "*Ministrum Fulminis Alitem.*" The army is the thunder of the crown. The ministry have tied up the hand which should direct the bolt.

My lords, I remember that Minorca was lost for want of four battalions. They could not be spared from hence; and there was a delicacy about taking them from Ireland. I was one of those, who promoted an enquiry into that matter in the other House; and I was convinced we had not regular troops sufficient for the necessary service of the nation. Since the moment the plan of augmentation was first talked of, I have constantly and warmly supported it among my friends: I have recommended it to several members of the Irish House of Commons, and exhorted them to support it with their utmost interest in parliament. I did not foresee, nor could I conceive it possible, the ministry would accept of it, with a condition that makes the plan itself ineffectual, and, as far as it operates, defeats every useful purpose of maintaining a standing military force. His Majesty is now so confined by his promise, that he must leave twelve thousand men locked up in Ireland, let the situation of his affairs abroad, or the approach of danger to this country, be ever so alarming, unless there be an actual rebellion, or invasion, in Great Britain. Even in the two cases excepted by the King's promise, the mischief must have already begun to operate, must have already taken effect, before his Majesty can be authorised to send

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for the assistance of his Irish army. He has not left himself the power of taking any preventive measures, let his intelligence be ever so certain, let his apprehensions of invasion or rebellion be ever so well-founded: unless the traitor be actually in arms; unless the enemy be in the heart of your country, he cannot move a single man from Ireland.*

I feel myself compelled, my lords, to return to that subject, which occupies and interests me most; I mean the internal disorder of the constitution, and the remedy it demands. But first, I would observe, there is one point upon which I think the noble duke has not explained himself. I do not mean to catch at words, but, if possible, to possess the sense of what I hear. I would treat every man with candour, and should expect the same candour in return. For the noble duke, in particular, I have every personal respect and regard. I never desire to understand him, but as he wishes to be understood. His grace, I think, has laid much stress on the diligence of the several public offices, and the assistance given them by the administration, in preparing a state of the expences of his Majesty's civil government, for the information of parliament, and for the satisfaction of the public. He has given us a number of plausible reasons for their not having yet been able to finish the account; but, as far as I am able to recollect, he has not yet given us the smallest reason to hope that it ever will be finished, or that it ever will be laid before parliament.

My lords, I am not unpractised in business, and if, with all that apparent diligence, and all that assistance, which the noble duke speaks of, the accounts in question have not yet been made up, I am convinced there must be a defect in some of the public offices, which ought to be strictly enquired into, and severely punished. But, my lords, the waste of the public money is not of itself so important as the pernicious purpose to which we have reason to suspect that money has been applied. For some years past, there has been an influx of wealth into this country, which has been attended with many fatal consequences, because it has not been the regular, natural produce of labour and industry. The riches of Asia have been poured in upon us, and have brought with them not only Asiatic luxury, but, I fear, Asiatic principles of government. Without connections, without any natural interest in the soil, the importers of foreign gold have forced their way into parliament, by such a torrent of private corruption, as no private hereditary fortune could resist. My lords, I say nothing but what is within the knowledge of us all; the corruption of the people is the great original cause of the discontents of the people themselves, of the enterprise of the crown, and the notorious decay of the internal vigour of the constitution. For this great evil some immediate remedy must be provided; and I confess, my lords, I did hope, that his Majesty's servants would not have suffered so many years of peace to elapse, without paying some attention to an object, which ought to engage and interest us all. I flattered myself I should see some barriers thrown up in defence of the constitution, some impediment formed to stop the rapid progress of corruption. I doubt not we all agree that something must be done. I shall offer my thoughts, such as they are, to the consideration of the House, and I wish that every noble lord who hears me would be as ready as I am to contribute his opinion to this important service. I will not call my own senti-

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* The following is an Extract of the Lord Lieutenant's Message to the House of Commons of Ireland upon this occasion:

"Gentlemen; I am commanded, by his Majesty, to acquaint you, that his Majesty, upon the most mature consideration of the state and circumstances of this kingdom, judges it absolutely necessary, that a number of troops, not less than 12,000 men, commissioned and non-commissioned officers included, should be kept therein, for the better defence of the same; and that his Majesty, finding that, consistent with the general public service, the number before-mentioned cannot be constantly continued in Ireland, unless his army upon the Irish establishment be augmented to 15,235 men in the whole, commissioned and non-commissioned officers included: his Majesty earnestly recommends it to his faithful Commons to concur in a measure, which his Majesty has extremely at heart, as necessary not only for the honour and dignity of his crown, but the peace and security of this kingdom. And I have his Majesty's special command to assure you expressly, in his Majesty's name, that it is his determined resolution, that upon such augmentation, a number of effective troops, not less than 12,000 men, commissioned and non-commissioned officers included, shall, at all times, except in cases of invasion or rebellion in Great Britain, be kept within this kingdom, for the better defence thereof."

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ments crude and indigested; it would be unfit for me to offer any thing to your lordships, which I had not well considered; and this subject, I own, has long occupied my thoughts. I will now give them to your lordships without reserve.

Whoever understands the theory of the English constitution, and will compare it with the fact, must see at once how widely they differ. We must reconcile them to each other, if we wish to save the liberties of this country; we must reduce our political practice, as nearly as possible, to our principles. The constitution intended that there should be a permanent relation between the constituent and representative body of the people. Will any man affirm, that, as the House of Commons is now formed, that relation is in any degree preserved? My lords, it is not preserved, it is destroyed. Let us be cautious, however, how we have recourse to violent expedients.

The boroughs of this country have properly enough been called the rotten parts of the constitution. I have lived in Cornwall, and, without entering into any invidious particularity, have seen enough to justify the appellation. But in my judgment, my lords, these boroughs, corrupt as they are, must be considered as the natural infirmity of the constitution. Like the infirmities of the body, we must bear them with patience, and submit to carry them about with us. The limb is mortified, but amputation might be death.

Let us try, my lords, whether some gentler remedies may not be discovered. Since we cannot cure the disorder, let us endeavour to infuse such a portion of new health into the constitution, as may enable it to support its most inveterate diseases.

The representation of the counties is, I think, still preserved pure and uncorrupted. That of the great cities is on a footing equally respectable; and there are many of the larger trading towns, which still preserve their independence. The infusion of health, which I now allude to, would be to permit every county to elect one member more, in addition to their present representation. The knights of the shires approach nearest to the constitutional representation of the country, because they represent the soil. It is not in the little dependent boroughs, it is in the great cities and counties that the strength and vigour of the constitution resides, and by them alone, if an unhappy question should ever rise, will the constitution be honestly and firmly defended. I would increase that strength, because I think it is the only security we have against the profligacy of the times, the corruption of the people, and the ambition of the crown.

I think I have weighed every possible objection that can be raised against a plan of this nature; and I confess I see but one, which, to me, carries any appearances of solidity. It may be said, perhaps, that when the act passed for uniting the two kingdoms, the number of persons who were to represent the whole nation in parliament was proportioned and fixed on for ever—That this limitation is a fundamental article, and cannot be altered without hazarding a dissolution of the Union.

My lords, no man who hears me can have a greater reverence for that wise and important act, than I have. I revere the memory of that great prince who first formed the plan, and of those illustrious patriots who carried it into execution. As a contract, every article of it should be inviolable; as the common basis of the strength and happiness of two nations, every article of it should be sacred. I hope I cannot be suspected of conceiving a thought so detestable, as to propose an advantage to one of the contracting parties at the expence of the other. No, my lords, I mean that the benefit should be universal, and the consent to receive it unanimous. Nothing less than a most urgent and important occasion should persuade me to vary even from the letter of the act; but there is no occasion, however urgent, however important, that should ever induce me to depart from the spirit of it. Let that spirit be religiously preserved. Let us follow the principle on which the representation of the two countries was proportioned at the Union; and when we increase the number of representatives for the English counties, let the shires of Scotland be allowed an equal privilege. On these terms, and while the proportion limited by the Union is preserved by the two nations, I apprehend that no man who is a friend to either, will object to an alteration, so necessary for the security of both. I do not speak of the authority of the legislature to carry such a measure into effect, because I imagine no man will dispute it. But I would not wish the legislature to interpose by an exertion of its power alone, without the cheerful concurrence of all parties. My object is the happiness and security of the two nations, and I would

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not wish to obtain it without their mutual consent.

My lords, besides my warm approbation of the motion made by the noble lord, I have a natural and personal pleasure in rising up to second it. I consider my seconding his lordship's motion, and I would wish it to be considered by others, as a public demonstration of that cordial union, which, I am happy to affirm, subsists between us; of my attachment to those principles which he has so well defended, and of my respect for his person. There has been a time, my lords, when those who wished well to neither of us, who wished to see us separated for ever, found a sufficient gratification for their malignity against us both. But that time is happily at an end. The friends of this country will, I doubt not, hear with pleasure, that the noble lord and his friends are now united with me and mine, upon a principle which, I trust, will make our union indissoluble. It is not to possess or divide the emoluments of government; but, if possible, to save the state. On this ground we met; on this ground we stand, firm and inseparable. No ministerial artifices, no private offers, no secret seduction, can divide us. United as we are, we can set the profoundest policy of the present ministry, their grand, their only arcanum of government, their *divide et impera*, at defiance.

I hope an early day will be agreed to for considering the State of the Nation. My infirmities must fall heavily upon me indeed, if I do not attend my duty that day. When I consider my age and unhappy state of health, I feel how little I am personally interested in the event of any political question: but I look forward to others, and am determined, as far as my poor ability extends, to convey to those who come after me, the blessings which I cannot long hope to enjoy myself.

The House agreed to the 24th day of January, for taking into consideration the State of the Nation. But at that time there being no Lord Chancellor, the motion was adjourned to the 2nd of February.*

* "On the 28th of January, the duke of Grafton resigned his situation of first lord of the Treasury; lord North was appointed his successor, and measures were taken to fill up the vacancies occasioned by other resignations. Lord Halifax was appointed lord privy seal, in lieu of the earl of Bristol, who became groom of the stole; Welbore Ellis was made one of the vice-treasurers of Ireland, instead of James Grenville; Charles Fox was appointed a lord of the admiralty; and after some time, Mr. Thurlow was made solicitor-general, instead of

* From the Gentleman's Magazine.

Debate in the Commons on a Motion for the Redress of Grievances previous to granting a Supply.*] January 24. The order of the day being read, for going into a Committee of Supply,

Mr. Serjeant *Glynn* rose and said:

Sir; the only point in which our present ministers seem to concern themselves about the people of this country, is to get their money; but the only point in which the people of this country should concern themselves about our present ministers, is a redress of grievances. The power of granting or withholding a supply, is at once our honour and our strength. If we avail ourselves of it, we shall be very just to our constituents and posterity; if we do not, we shall be traitors to both. If we make a redress of grievances the condition of granting a supply, grievances will be redressed; and late experience has too plainly proved, that a redress of grievances is no other way to be obtained: to withhold a supply is a quiet and silent exertion of that power, which the constitution has put into our hands: it is without tumult and without danger: it is asserting a popular right for an important purpose, without insulting government; and is liable to none of the objections which have given occasion to the display of so much eloquence, against other measures, equally constitutional, that have ineffectually been taken for the same purpose without doors. I am therefore of opinion, that the grievances which have been complained of in the kingdom, should be enquired into, in a committee for the redress of grievances, before we go into a committee for granting a supply.

Mr. *Onglèy*:

Sir; I stand up to second the opinion of my worthy friend, that we should now follow the example of those from whom we have derived the liberty for which we contend: the nation from every quarter is complaining that the public rights are invaded, and shall we give those that invade them the public money? National money is granted for national purposes; and if those with whom it has been

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entrusted have perverted it to answer the selfish and oppressive views of an iniquitous faction, shall we trust them with more?

Lord *North:*

I think, Sir, that the gentlemen who propose to withhold a supply, in order to compel administration into their measures, pay us a compliment which they do not intend: they suppose, that with the tenderness of a true parent, we should rather part with the child to a false claimant, than see it wounded to death; while they, with the unfeeling obduracy of a pretended mother, would much rather see it fall a sacrifice to their groundless pretences, than alive in the bosom that would protect and cherish it. They would be content that public credit should sink, and public business stand still, provided they could gratify the malice of disappointed interest or ambition; but they hope that our feelings for the public are more keen, and that we shall incur any inconvenience rather than say the nation should suffer.

Mr. Dunning; who, notwithstanding his resignation, had held the office till a successor should be nominated." Adolphus.

"To the great astonishment of the nation, the duke of Grafton, on the 28th of January, resigned his office of first lord of the treasury. Lord Camden and Mr. Dunning, his chief supporters in their respective houses, had shewn themselves inimical to the measures which had been recently pursued; besides, the duke of Grafton professed himself the political pupil of the illustrious Chatham; and though, during the illness and inaction of that statesman, he had swerved from his principles, opinions, and maxims, he still avowed the highest veneration for his character and sentiments. Perfectly recovered, lord Chatham was now returned to parliament, and with his wonted vigour attacked the system and measures of administration. The opposition of all his ablest friends, Grafton could not endure. In addition to these causes, we may find another probable reason for the dereliction of his post. Junius, indefatigable in raking together calumnious anecdotes, and dexterous in bestowing on them the appearance of truth, had made the private as well as the public conduct of this nobleman the chief butt of his satire, and for his actions assigned the most contemptible and unworthy motives. He must be either grossly stupid or stoically magnanimous, either less or greater than ordinary men, who, though conscious of innocence, can bear with indifference powerful calumny that produces general belief. The duke of Grafton, regarding his character, was so much moved by the letters of Junius, that they certainly co-operated with other causes in impelling him to resign." Bisset.

"On the 28th of January, the duke of Grafton unexpectedly resigned his office as first lord commissioner of the Treasury; and lord North, who had now been two years chancellor of the Exchequer, was nominated his successor. Thus was at length formed that famous administration, which exercised the powers of government for twelve successive years; and which, not deriving a single ray of reason from the errors of their predecessors, by their rash, violent, and vindictive measures, shook the mighty and majestic fabric of the British empire to its very foundation.

"The character of the nobleman who at this crisis voluntarily relinquished the helm of government, has been, in consequence of the violent, not to say the malignant and factious spirit which predominated under his administration, grossly misrepresented. Educated in the purest principles of ancient Whiggism, for a zealous attachment to which his grace's ancestors had from the era of the Revolution been conspicuously distinguished, he made an early and brilliant entrance into public life, under the auspices of the earl of Chatham, who, in a manner not to be resisted, urged his acceptance of the Treasury, which the duke, on the first offer, had positively declined. The unfortunate illness and consequent incapacity of that nobleman proved the source of infinite inconvenience; and the duke of Grafton, deprived of the powerful support which he expected from the wisdom, experience, and popularity of his illustrious friend and coadjutor, was in points of great moment opposed and over-ruled in the cabinet; though, in the delusive hope of more propitious times, he was reluctantly persuaded to continue at the head of affairs; the ostensible patron of measures which he in reality discountenanced and disapproved.

"The dismission of lord Camden, injuriously imputed to the influence of the duke of Grafton, was in fact the immediate cause of his grace's resignation; and the friendship which had long subsisted between these two noblemen, suffered no interruption in consequence of the unhappy political differences now prevailing. The late minister, nevertheless, on his secession from office, was far from joining the standard of opposition; and on the grand popular question of the Middlesex election, however farther reflection might suggest the idea, or, to speak more properly, enforce the conviction of the total expediency of the measures adopted by government; he at no subsequent period, even when his connection with the Court was entirely dissolved, appeared at all to recede from his original opinion respecting the constitutional and parliamentary rectitude of the vote of incapacitation. And the whole tenor of this nobleman's political life has sufficiently evinced, that he was incapable of acting in a manner which he conceived to be in any respect contrary to the true and essential interests of his country." Belsham.

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But do they not know, that if the hand will not feed the belly, they must both perish together; and that they themselves are members of that very body which they would destroy. But after all, what evidence have we that there are public grievances, which demand an enquiry: that a number of ignorant mechanics and rustics have been treated in one place with beer, and broke windows in another, is true: are these the grievances into which we are to enquire? That some persons whose share in the public interest, and rank in life should have taught better, have treated these rustics and mechanics, and taught them, in the jollity of their drunkenness, to cry out that they were undone, is also true: are these then the grievances into which we are to enquire? If these are not, I know of none; the nation is quiet and content, except where tumult and discontent are industriously excited; and shall the annual supply be withheld, shall every purpose of government be suspended? shall the public creditors be unpaid, and the army and the navy want clothes and bread, because the drunken and the ignorant have been made dupes to the crafty and the factious, signed papers that they have never read, and determined questions that they do not know; roared against oppression and tyranny, with licentiousness that makes liberty blush, and staggered home with impunity, swearing they were in danger of slavery, while every one they met, who did not join in their cry, was in danger of a broken head? I will venture to affirm, that among all the grievances that are pretended, if all of them were real, there is not one that threatens the nation with half the mischief that would accrue from the proposed delay in granting proper supplies of money for public business.

Mr. *Ongley* again:

I am astonished, Sir, to hear arguments made use of against our now going into a committee of supply, which tend immediately to prove, that a supply should never be suspended upon any account; and I again affirm, that we are now called upon to exert this ancient, this important, this constitutional power, and that——

Here he was called to order by the Speaker, for speaking a second time to the merits of the question, when he should have confined himself to the explanation.

Mr. *Cornwall*:

Sir; I am perfectly of opinion with my worthy friend, who has been called to order: if the argument that he was about to answer proves any thing, it proves too much; it proves that whatever use may be made of the public money, public money must be granted whenever there is a ministerial requisition, without hesitation, enquiry, or delay: I know not whether I should not rather be glad than sorry, to hear such sentiments advanced, however I abhor their tendency, because it ascertains the principles and designs of those who advance them, and justifies the opinion which has been formed of them, and a steady and warm opposition to their measures. The mischiefs, Sir, that may arise from a delay in granting the supplies, however they may have been magnified like a dwarf in his shadow, are at most transient, but those which the measure is intended to obviate, are perpetual. It is very easy to talk of the judgment of Solomon, and the belly and members, from Scripture History and Æsop's Fables; and if I was disposed to shew my learning, I could produce the highest authority in favour of temporary sufferings, to avoid those that are perpetual, though future. It is better to go into heaven with one eye, or one hand, than having two, to be cast into hell fire. I am of opinion, that the right of making the redress of grievances, a condition of the grant of supplies, is a constitutional right, that it may be exerted for good purposes, and that it ought to be exerted now.

Mr. *Dowdeswell*:

Sir; however ludicrously some persons may affect to talk of public discontents and grievances, I am of opinion, that they will afford matter of very serious consequences. Whether the petitions that have been signed by so many thousand freeholders of this country are well or ill-founded, whether they are the sense of the people, or of a faction, are among other things the object of our enquiry. If we are not to take it for granted, that all who have signed the petitions are sensible of the grievances complained of in them, and have determined the question in their own judgments, as it is there said to have been determined; neither surely are we to take it for granted, that nothing can fairly be inferred from these petitions, but that the drunken and the ignorant have been made dupes to the crafty and the factious; to oppose enquiry is certainly no sign of confidence in the event; the time need not be

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long, and if nothing more is required in order to procure redress, but a proof that there has been grievances, I am of opinion, that the want of redress will not long impede the wheels of government; if when grievances shall be put out of doubt, redress shall be refused, the progress of government is no longer a common benefit, and the sooner its wheels are impeded the better.

Colonel *Barré:*

Among other things, Sir, that are proper subjects of enquiry in the committee that is proposed, we must, as the hon. gentleman who spoke last has observed, include the cause of the disturbances, which have been considered in such different lights: let me add, that we should also enquire why a very considerable part of the King's dominions (America) is taken out of the hands of the civil power, and commanded and governed by the army; and why persons who sit in his Majesty's council, and are let into the secrets of the cabinet, come hither, and oppose the regular proceedings of this House.

Lord *North:*

The proceedings contended for are not regular: since the Revolution, and since the civil list has been made permanent, it has not been customary for the committee for the redress of grievances to sit.

Mr. *Edmund Burke:*

Sir; whatever may have been usual since the Revolution, and the established permanency of the civil list, we know that the time has been, and I will venture to affirm that the time will be, when we shall first examine grievances and then vote a supply. He who shrinks from a contest, betrays a consciousness that he is weak: we did not want this proof of the weakness of our present ministers; nor do we want any further proof that they are corrupt, than that they are weak. An administration that is weak, must of necessity be corrupt; the support that will not be given must be bought: a corrupt administration must also of necessity be an enemy to liberty, because liberty is an enemy to that: they will be opposed with a zeal too generous to be prudent, and will have frequent opportunities to punish what is laudable in itself for a trivial and accidental excess; wishing for nothing more than an abuse of liberty, as a pretence to destroy it. The press has been loudly complained of, as exciting the public to a breach of their duty, and crying out like another Massaniello, 'Pull 'em down, pull 'em down:' but let the men who abused the liberty of the press on both sides be produced: let us see who they are that write against the opposite party 'Pull 'em down;' I will venture to aver, that those on the side of administration are the worst. The experiment is now trying, whether the liberty of the press be a curse or a blessing: it is easy to see that it will be differently determined by different parties. I see one gentleman (Mr. Dowdeswell) who has been in parliament, and who has had a place but one year. I see another gentleman (lord North) who has also been twenty years in parliament, and has been without a place but one year. These gentlemen, when place-mongers are proscribed, will have very different sensations. I see very few on the side of the present administration, except those that are attached by golden hooks, and they indeed enquire nothing more concerning any question, but what are the commands of the day. Those who now oppose an enquiry into grievances, have more cogent reasons; they are the persons from whom these grievances arise; every gentleman who has the true interest of his country at heart, every gentleman who sincerely approves of the measures of administration, and even the ministers themselves, if they are conscious that no just ground of complaint has been given, will concur in the measure proposed, which can be thought dangerous only by those whom guilt has made timid, or pushed into mischievous consequences only by those whom timidity has made desperate.

Mr. *Mackworth:*

Sir; I shall always think it my duty to act in favour of government, as far as I think government pursues its proper end by proper means; but though I shall be ready to support the King here, I shall not always vote on one side, because——

He was called to order by Mr. Burke, for making use of the King's name.

Lord *North.* To use the King's name, except to influence the debate, is not contrary to order.

Mr. *Thomas Townshend* said, that he should make no scruple to oppose the King: upon which

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Lord *Barrington* observed, that no gentleman should say I will oppose the King, but I will oppose the measures of government: and that no gentleman should say of another that he opposed the King; his lordship also occasionally observed, that no administration was so good as it ought to be, nor any opposition so virtuous as it pretended.—Several other members spoke in the debate, which growing warm,

The *Speaker* was often applied to, to call to order, and often reprehended by the opposite party, upon which he spoke to the following effect:

It was said by an hon. gentleman present, that this chair was not a bed of roses, (see p. 736,) and indeed it has not been a bed of roses to me; I have thought both sides of the House wrong; but from what has been thrown out, I am almost afraid to do my duty. The House will, I hope, support me if I do right, if wrong condemn me, but even then, I shall have merit with myself for my good intentions. If I find emcouragement, I will stop disorder, but if by so doing, I bring upon myself pique and resentment, there is an end of it. When this Chair is disgraced, I will leave it, that it may not disgrace me.

The House then went into the Committee of Supply.

Examination of Dr. Musgrave respecting the Means by which the late Peace had been obtained.] January 16. Sir *Richard Bamfylde* said, he had received instructions from his constituents in respect to a complaint made by Dr. Musgrave, who, in an Address to the public, had arraigned the conduct of some of his Majesty's ministers. As to himself, he knew nothing about circumstances and evidence, which the Doctor could bring; but if there was any truth in the accusation, it was incumbent on that House to bring it to light, and impeach the guilty. If, on the contrary, the Doctor could make out no evidence to support his charge, the House would determine what was proper to be done with him. He therefore moved, that the 29th instant be appointed for the Doctor to appear at the bar of the House, then and there to make out his complaint.

Mr. *Parker* seconded the motion, as instructed by his constituents for the same purpose.

Sir *G. Osborne* said, that, as a relation to one of the noble lords named in the doctor's Address (lord Halifax) he was desired by him to mention his willingness that the enquiry might be made as soon as the House could, conveniently for themselves, agree to it. That he (lord Halifax) would have brought it on in the Lords' House, had not it been for the early probability of its being brought on in the House of Commons.

Lord *North* spoke to the same purpose; and the motion was agreed to without opposition: and a messenger was sent to give Dr. Musgrave notice.

January 29. This day Dr. Musgrave attended according to order. He was called in and asked by the Speaker—"Did you publish an Address to the county of Devon, previous to the county meeting? [A debate arising, he withdrew. Called in again.]

Mr. *Speaker*. It is my duty to inform you, that you cannot be asked any question that can tend to accuse yourself. No improper questions will be asked you; if any such should be attempted, I shall be careful to put a stop to them. If they escape my attention, you will give me notice of them.

Dr. *Musgrave*. Mr. Speaker, I desire no such exemption. I will answer all questions.

Did you publish an Address to the gentlemen of Devon?—I did, in the Public Advertiser; that is the copy I acknowledge. The date I affixed was the 12th of August last. The 2nd of September last is the date of the print.

Can you speak to the contents of that Address?—Yes. It was an address complaining of the conduct of lord Halifax, in refusing to examine a witness relating to a charge against certain great persons, which I apprehended it was his duty to do.

[Paper shewn to him at the bar, being part of the St. James's Chronicle, which he looks over, and says, he believes it is a true copy of that published by him in the Public Advertiser.]

[Paper brought up and read, being his Address to the county of Devon.]

What was the information you offered to give to lord Halifax? What was the nature of it?—I delivered it to lord Halifax in writing.

Have you a copy?—Yes. This is a true copy; I examined it with that deli-

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vered to lord Halifax, and it has been in my custody ever since. I gave the original to lord Halifax. This is a true copy, except, that in this copy there is a blank for a name, which was inserted in the original.

Is that a true copy, excepting the blank? —Yes, it is. I had two informants; one was mentioned in the paper I delivered to lord Halifax, the other was not mentioned there by name. There was only one blank in the original, and that was for the name of an English lady. One informer was there named; the other informer was called a French gentleman.

Whether lord Halifax did not deliver back the paper?—He did offer it to me at the second meeting. He said I might have it. I said I will never take it back again.

Did you not take it away?—I did not. I left it with him.

Whether, when you gave the paper to lord Halifax, you knew the name of the second informer?—I did.

[Paper brought up.] He said, before it was delivered in, I did not deliver this to lord Halifax, as legal evidence against the noble lords mentioned in it; I never considered it as such. This is a copy of that I delivered to lord Halifax. [Paper read, viz.]

Narrative of Intelligence received at Paris.

1. The first hint I had of the ministry having been bribed to make the peace, was at the latter end of the year 1763, for Monsieur . . . . . in a private conversation I had with that gentleman. The peace happening to be talked of, he made use of this expression, "On croit à Paris, que milord Bute a eu de l'argent pour cela." Though the words 'on croit' were pretty strong, and though Monsieur . . . . . 's connections gave great weight to them, I considered the thing as an idle rumour, and neither pushed the conversation further at that time, nor made any enquiry about it afterwards.

2. It was not till the latter end of Nov. 1764, that I began to think the story more worthy attention. Being at that time in company with three gentlemen, an Irishman, a Scotchman, and a Frenchman, a dispute arose about the peace. The Irishman and myself condemning it, the Frenchman remained silent, and the Scotchman alone approving it. The dispute did not last long before the Irishman and the Scotchman had occasion to go away, so that there remained only the Frenchman and myself together. Our conversation falling upon the same topic, he told me that he remembered to have heard, a little before the duke of Bedford's negotiation, that a sum of money, amounting to about eight million of livres, had been sent into England to buy a peace; that the remittance had been made by M. de la Borde, and another banker, whose name he did not know; and that the way this came to be known, was by the clerks talking of it among themselves after dinner. He added, that being himself in company with several gentlemen, who were giving their conjectures, whether the peace would hold or no, one of the company decided the question, by saying, 'Nous aurons la paix certainement, car nous l'avons achetée.' This was all I heard the first interview.

I communicated this account the next morning to a Mr. Stuart, my patient, who lived in the Rue de a'Echelle, with a Mr. Maclean. Mr. Maclean was then gone out, but upon his coming in, I repeated it to him. It occurred to me, during my conversation with Mr. Stuart, as it did afterwards to Mr. Maclean, that the fact of money being sent over might be true, but that the destination of it might be a mistake: that, in short, it might be intended for no other purpose than to buy up English stocks, for the sake of selling them soon after at an advanced price. This account appeared so natural, that I went home in (almost) a full persuasion of its being really the case.

4. The same day, or the day after, I saw the same Frenchman, my informant, again. I put this objection to him. He answered readily, No; that was not the case. I knew very well, continued he, that M. de la Borde sent over a very large order for stocks, by the Sardinian embassador's courier: but the money I speak of was before that time, and at least a month or two before the duke of Bedford's arrival. Besides, I can tell you the people to whom it was distributed. It was divided among three persons: lord Bute—here he hesitated for a minute or two. I mentioned to him the name of Lord Holland. He answered, No, it was not lord Holland; that was not the name; it was . . . . . Mr. Fox. The third, added he, was a lady, whose name I do not recollect. This, I am pretty sure, was all that passed upon the subject at our second interview.

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5. The third interview was, I believe, on Monday the third of December. I then asked him whether the third person, whose name he could not recollect, was not ——? He answered, No, it was not. That he had heard the name; that it being a name no way familiar to him, he could not, at such a distance of time, recollect it of himself; but if it was mentioned, he believed he should know it. At present, added he, I only remember that it was a lady, and the mistress of a man of great quality.

6. I had hitherto made no enquiries about his authorities. But reflecting, that a person who could know all these particulars, must have been very near the source, I thought proper to ask him, the next time I saw him, from whom he had his information. He answered, from an officer, who, at that time, furnished plans to the duke de Choiseul's office, was of course greatly connected with it, and moreover dined every day with the principal people of the office; and there, added he, at table, did these gentlemen talk over the affair, not without some satisfaction at its being concluded. Further, says he, this officer, who is now at Cayenne, reasoned thus with me about it: Is it not better to buy a peace at the expence of ten millions, than to spend three hundred millions (if we could raise them) to fit our army for the field, which army, so fitted out, could not possibly do us any material service.

7. I had a curiosity, continued he, to hear what the Sardinian ambassador's secretary, who was a great acquaintance of mine, would say to this. Happening to meet him soon after, I told him it was reported the English had given a great sum to madame Pompadour, to buy a peace, and asked him if it was true. The answer he made me was in these words; "Ah, que vous etes bête! les Anglois donnent de l'argent? et pourquoi faire? oui, oui, on a donnée de l'argent."

8. He further said, that upon Monsieur Bussy's return from England, one of his secretaries having dropped some hints in company, *à un souper*, of what was going on in England, was taken up and put into the Bastile, that he might not, by any further indiscretion, discover the whole affair.

9. Upon my mentioning an intention of going to England with the news, he added, that the whole detail of the transaction might be known, either from Monsieur D'Eon, if he chose to discover it, or from Monsieur L'Escallier, a wine merchant in London, whom the duke de Nivernois made use of as a secretary.

10. I pressed him about the authenticity and certainty of his account; his answer was, as to myself, "Je le crois autant que je crois ma propre existence." He assured me likewise, that the affair was shamefully notorious in some houses at Paris: "L'affaire faisoit même scandale dans des certaines maisons à Paris."

11. I think it necessary to take notice of one variation, and the only one that I observed in this account. In the first interview he mentioned the sum of eight millions of livres. In a subsequent one (I forget which) he said, between five and eight millions; possibly this might be owing to his having heard the sum named in English money, and never having given himself the trouble of reducing it to French; because the last time I talked with him upon the subject, when I desired to know, as near as possible, the exact sum, he took a little time to recollect himself, and then said, between eight and ten millions of livres; that is, continued he, in English, four hundred thousand guineas.

Have you any thing more to say?—I have, I am ready to say all I know.

Were those all the papers you delivered to lord Halifax?—No; several other letters.

Did you give lord Halifax any other information?—I did.

Have you those letters, or copies of those you delivered to lord Halifax?—I have [delivers in a book]; the four first letters are copies of those which passed between lord Halifax and me.—[Book brought up: and letters read.]

What was lord Halifax's answer to this information?—I would first mention some previous steps. Lord Hertford having asked me, if I thought it matter of further enquiry, I went to lord Mansfield; he said, he chose not to hear it. I then went to Dr. Blackstone, who read my paper of information, and told me, that I should carry it to the Secretary of State; that no Englishman would be averse to enquire into it. I went to lord Halifax on the 10th of May; he desired me to come again that evening; I then saw him: he took the paper and read it, looked up and stopped; then said, "I was recollecting that that person bought stock at that time, but it might be with his own money."

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He read my letter to lord Hertford, said it was a proper one. He said, if I had been in lord Hertford's place, I would have sent it to ——— and heard what he had to say. On reading the second letter, he said this might be very deep; I would readily enquire, but it is an affair of such magnitude; and then put a case of a man's being robbed on Hounslow-heath, and going to justice Fielding, and saying he was robbed by a tall, thin man, and apprehended it was the duke of Ancaster:—there is no difference, only in the size of the purse. He said, "If you had any proof, I would make no difficulty of telling it to my royal master." In my letter to lord Hertford, I mentioned the defectiveness of my information as a proof of the truth of it. Lord Halifax said, "I think with you, it is more likely to be true," from his knowing only a few circumstances. The second meeting was a few days afterwards. He did not stick to one objection. I set down a few arguments to use to him, which I left with him; I have in my pocket the same arguments which I set down a short time after from my recollection. This is not a copy. [Reads the paper, in substance as follows:]

"Narrative of intelligence is sufficient for enquiry, though not for accusation, confirmed by Dr. Blackstone. The first evidence of all crimes is hearsay; rare, at first, to stumble upon certainty. All offenders would escape if there was no enquiry. The high quality of offenders is no reason for stopping the enquiry; it must be done speedily: if the common people hear it and believe it, they might do justice after their own manner. I recommended it to lord Halifax, as one of the French ministers is here, whether he can be excused for not examining into it, &c."

What said lord Halifax?—I have acquainted the House with what passed at the first meeting. After that lord Halifax made no answer to the paper; nor did he controvert one of the arguments. I added, it would be an imputation on his Majesty's servants not to make the enquiry. He said, that an enquiry which tended to make the affair public, was an accusation. He asked for proofs, and by private enquiry. I told him of D'Eon's intelligence to Mr. Fitzherbert and sir George Yonge. I referred him to them; as to the public, the whisper was loud. He said D'Eon was a man of bad character. I said his character was good two years ago. I shewed him a letter from Mr. Pitt, of which I have a copy. Lord Halifax read it.

[He reads the copy of a letter, 29th December 1764, from Mr. Pitt to Dr. Musgrave.]

Were these all the papers you shewed lord Halifax?—They were all.

Did you acquaint the late Dr. Blanchard with this?—Never.

Did you shew lord Halifax the letter you wrote to Mr. Pitt?—I did not. I had no copy.

What was the profession of this principal informant?—[Question objected to, and given up.]

Could you have produced your principal informant to lord Halifax?—No; he never asked me for him.

Was he in your power?—My informant was then at Paris, difficult to correspond with. If lord Halifax would let me correspond with him through government, perhaps I might; but it would have been dangerous to him.

[Withdrew. Called in again.]

Mr. *Speaker*. Having now finished an account of papers left with, or shewn to lord Halifax, you may give a further account of what passed:

I have finished what passed at the second meeting, on the 14th of May. On the 16th of May, I saw sir George Yonge; I asked him whether he had received a message from lord Halifax. He said, No. I told him I had used his name, and the occasion of it. We have had some conversation. I told him what I said to lord Halifax. I understood, said sir George Yonge, that D'Eon could give evidence.

[Withdrew. Called in again.]

You will give the whole account relating to lord Halifax?—I mentioned the conversation with sir George Yonge, as a necessary preparative to the third conversation with lord Halifax. Sir George Yonge said, I understood D'Eon could give evidence, and had also proofs upon paper. He said, that some gentleman applied to him to be present at a meeting on this subject as a linguist. He said Mr. Pitt was consulted on the occasion. The next morning I saw Mr. Fitzherbert, sir George Yonge was there. Mr. Fitzherbert expressed astonishment at my boldness in going to lord Halifax. He said, he would not have any thing of his writing appear. Mr. Fitzherbert said, he had intelligence the French were offering money to get D'Eon's papers back. I went the same

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day to lord Halifax, or the next day. But there is one thing further: Mr. Fitzherbert said, if you would carry on the affair, you must apply to Mr. H. Cotes, he is D'Eon's protector. I said, I am not the accuser, I go no farther than desiring an enquiry. I went to lord Halifax; I told him what I had learned from sir George Yonge, that he apprehended D'Eon had papers, and that he could give direct evidence, and that Fitzherbert had said I should go to Mr. Cotes. I told him I did not chuse it; he is a stranger to me, and looked on as a meddling man. Lord Halifax said, I will have nothing to do with the matter. I disbelieve the charge: if I did believe it, as strongly as I now disbelieve it, I should not think this sufficient ground to go upon. I told him it was his duty; he seemed surprized. He said his duty was to take care of the state. I told him that Mrs. Fitzherbert had said the French were in treaty for D'Eon's papers. I made my apology for troubling him—that closed my conversation with lord Halifax.

On what day was this conversation?—The 18th May, 1765.

When lord Halifax said, "that person, I think, bought stock about that time," what answer did Dr. Musgrave give?—I did not say any thing.

You was asked whether the original informant was to be produced. Did you suggest to lord Halifax any means of getting that information?—I don't know I did.

Were there any means of getting at the man at Paris?—Very obvious ones, pointed out by my letter to lord Hertford; but my complaint is just, independent of that information.

Can you recollect any thing more that passed at the first conversation between sir George Yonge and you?—Yes. Sir George Yonge said "I will go myself to lord Halifax." I said, there is no occasion, my account is sufficient; I would not have you go.

Had you any particular reason for going to sir George Yonge?—In a former conversation with Mr. Fitzherbert, sir George Yonge's name was mentioned; no other reason.

Was it not from lord Halifax's desire to get all the information he could?—No; there was no desire in lord Halifax to get any information.

Whether Dr. Musgrave, when he came to Mr. Fitzherbert, at any time said, that he should take down the conversation and the dates in writing?—No; I did not.

Did you tell us that you intended to write down that conversation to make use of it hereafter?—I mentioned nothing of that.

Was you not introduced on the footing of giving information to me?—I can't say on what footing the common friend introduced me; but my intention was to know from Mr. Fitzherbert what overtures had been made to him, or any other person, by D'Eon: and whether they agreed with mine. The friend did not go with me, but gave me a note to carry to Mr. Fitzherbert, which I read to him;—"Mr. Fitzherbert will be glad to see Dr. Musgrave at such a time in the morning."

Did not that convey an idea that you had first desired to see me?—Yes; that is true.

What did you say to that friend?—I can't recollect; that I should be glad to speak with Mr. Fitzherbert; to know of him, whether the overtures of D'Eon were real or not, and whom they affected.

What conversation had you with that common friend?—The first notice I had was from Mr. Hartly, and he told me whom they affected; but I was not satisfied with this, and wished to hear it from Mr. Fitzherbert's own mouth.

Mr. *Fitzherbert.* Did you collect from my conversation that I had the smallest knowledge of D'Eon?—I don't know I did; but Mr. Fitzherbert admitted the reality of the overtures. After the names of the two lords were mentioned, Mr. Fitzherbert said, did you hear nothing of the Princess of Wales? I said, No. Mr. Fitzherbert answered, D'Eon says, the Princess of Wales had some of the money.

What do you mean by admitting the reality of overtures?—Mr. Fitzherbert's conversation did imply, that such overtures had been made to him; and when I mentioned the two lords names, he did not contradict it; but asked whether I heard nothing of the Princess of Wales? To which I made that answer.

Did Mr. Fitzherbert, in this conversation, express that he knew Mr. D'Eon?—He did not give me to understand, that he knew him personally.

Sir *George Yonge.* Do you recollect, I added, "but I know nothing of the matter."—No.

Did not I suggest the matter and manner of his coming to me, required some apology?—No; but I did make an apology without your desiring it, for having used your name to lord Halifax. I recollect no other apology.

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Did he mention to sir George Yonge lord Halifax's desire of being fully informed?—I only recollect that lord Halifax asked, whether there was a probability of getting proofs, and of prosecuting the enquiry in secret? I repeat to sir George Yonge the questions lord Halifax had put, whether there was any probability of obtaining proof, or a secret way of prosecuting it. I never said, that lord Halifax was desirous of getting at the truth, for I never thought it.

Did you not tell sir George Yonge, that you came with a message from lord Halifax?—I did not; sir George Yonge said, if you think proper, I will go and acquaint lord Halifax with what I know; but I was not one of the party applied to, but desired to go as a linguist.

Did not I say I knew nothing at all of the matter?—Sir George Yonge did not tell me that.

Mr. *Macleane.* Did you hear that any part of the money was given to the Princess of Wales?—Never heard a word of her at Paris, nor any surmise that she was concerned in it.

Did not you say to Mr. Stuart and me, that a million sterling was paid for the peace, 500,000*l.* to the Princess of Wales, 250,000*l.* to lord Bute, and the rest to lord Holland?—I never did say it.

[Dr. Musgrave desires to say something to Mr. Macleane.]

What have you to say to Mr. Macleane?—Mr. Macleane was the person to whom I talked of this affair at Paris, and whom I consulted, whether I should go to England; I received a letter, dated 9th December, 1764, from him, "That he had formed a resolution of disclosing it to lord Holland's son; that he had great obligations to lord Holland; that he had concealed to the last, &c."

[Produces the original letter; read—a copy of which is as follows.]

Paris, 9th Dec. 1764.

Sir; your leaving town, without calling upon me and Stuart as you promised, has occasioned my taking a step which must be disagreeable to you, but which was unavoidable in my circumstances, without I could submit to break through every tie of gratitude. You must have perceived with what degree of anxiety I combated your reasons for the demarche which you have made. I strove to shew, as well the folly as the improbability of the story to which you gave so easy credit. I had but one argument remaining, which your so unexpected departure has deprived me of an opportunity to use, which was, that I am under obligations to one of the persons concerned, which render it incompatible for me to be the repository of any secret prejudicial to his interest or honour. I had my reasons for deferring this argument to the last, hoping those I had used, and your own sense, would have determined you to drop your design. I had therefore no other choice left, when acquainted with your departure, than to disclose the whole to the son of the gentleman I hint at, who resides at present in Paris; stipulating, that nothing prejudicial to your interest should accrue from the discovery I should make.

This gentleman treated the story with so much contempt, that I know not whether he will take the trouble to advertise his father of it or not. But, at the same time, I think it incumbent upon me to let you know, what I have been very unwillingly obliged to do, that you may regulate your conduct as you please, without having it in your power to blame me. You will, perhaps, think it very improper for me to advise you after what has passed; but if you will consider that this is an attack upon the character of men very high in power, without means of proof; or, let me add, the probability of truth, having its source certainly from a spirit of gasconade or of vanity, you will, from a principle both of honesty and prudence, drop your purpose.

You may be inclined to think, that your discovering your design to me implied a confidence, and required secrecy, though you did not exact it from me. I have weighed well both sides of the question, and I find, that my retaining the secret, would have rendered me unworthy of the protection or friendship of any man, while my discovering it has proceeded entirely and unavoidably from your withdrawing that confidence, by departing without calling upon us as you promised; and some days before, you told us you would (which I must repeat it) put it out of my power to acquaint you, as I always intended, that if you persisted, I would, as I have done, discover the whole. I am, Sir, &c.

L. Macleane.

To S. Musgrave, Esq.
Physician,
Southampton-street, London.

What answer did you make to it?—An

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answer of which I kept no copy. I writ a letter, desiring not to take lodgings, and that I would explain myself more particularly when I had seen Mr. Stuart.

Mr. *Macleane.* Did you not write another, implying, that you could not go to Paris to call me to account, for fear of the Bastile, and of injuring his evidence?—I did not write such a letter. The first letter I wrote was after talking with lord Halifax, who advised me to go back to Paris, and I said I would not, and wrote 14th December, 1764. Lord Halifax asked me, "What colour I would give to my journey to London, that I might not be suspected of bringing intelligence?—Should it not be thought, seeing my friends?"—I said, there was another more plausible—the vacancy of a physician to the Charter-house. I wrote to Mr. Macleane, to let him know there was no chance of a physician to the Charter-house, and desired the same lodging. I mentioned this to lord Halifax.

How many hours was you from leaving Paris to be on board at Calais?—I left Paris at seven o'clock in the morning, on Friday. I lay at Bologne on Saturday night; I got to Calais, and went on board at twelve o'clock on Sunday.

Was not you at your window in your lodgings at one o'clock on Friday, the day you mention you left Paris?—No; I was not. I set out at seven o'clock in the morning.

What was your motive for first going to Mr. Fitzherbert?—I had heard from Mr. Hartly, that D'Eon's overtures had been made to Mr. Fitzherbert; and therefore thought him the properest person to ask, whether it had or no.

Did you ask Mr. Fitzherbert, whether he had such overtures from D'Eon?—I do not remember the particular conversation, but Mr. Fitzherbert's conversation admitted and implied it.

Do you recollect the overtures supposed to have been made by D'Eon to Mr. Fitzherbert?—They were, as I understand, to accuse two privy counsellors of having received money for the peace.

Sir *George Yonge.* Where was the meeting of sir George Yonge, Mr. Fitzherbert, and you?—I found sir George Yonge at Mr. Fitzherbert's at breakfast-time—I am sure sir George Yonge was there.

From whom had you the information of D'Eon's overtures?—The first was from general Conway. He first gave me a hint of it.

What was that hint?—When I told him the story, Mr. Conway asked me if I had seen D'Eon; he said, "I hear he has dropped hints." I told him "I never would see him. I said, I will avoid all possibility of concert with any one." After this, I went to Mr. Hartly, and desired him to enquire. He desired first to consult sir George Saville. Sir George Saville came to us; I could not tell him the particulars, but only that there was such a charge. Sir George Saville thought it was right to consult the duke of Newcastle. He went to him. I was not present; but I heard, that the duke of Newcastle said, Fox was rogue enough to do any thing, but thought he was not fool enough to do this. The duke said, he could not advise them to meddle in it, for D'Eon will be bribed, and then you will be left in the lurch. I heard this conversation from sir George Saville, or Mr. Hartly; from one of them, in the presence of the other. They both went to the duke of Newcastle.

Mr. *Conway.* What was the nature of his first application to me?—The nature of my first application to Mr. Conway was, I wanted to know how to convey a letter to lord Hertford, not to be opened, to enquire whether the informant was apprehended. I had designed presenting a paper to the House of Commons, setting forth the information. He asked me the particulars, and said he would not encourage such application to the House of Commons without a shadow of probability; and then asked if I had heard that D'Eon had dropped hints, and whether I would go to him. I said, No; I would not. Mr. Conway added, at the same time, "I think it the duty of every man to come at truth in every station."

Had you then any reason to believe that D'Eon had evidence to corroborate your information?—No; not at that time; it was from Mr. Conway that I first heard that D'Eon had dropped hints; but I think he mentioned it, as having it only from report, not as knowing it; as a casual matter of conversation.

When was this conversation?—Ninth of January, 1765, the day before the opening of the session.

Had he then communicated the matter to his Majesty's ministers?—Not to lord Halifax, only to lord Holdernesse. I said I was under apprehensions for the safety of my informant, and therefore had concealed the absurd design of presenting my petition, which I gave up.

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Was not this previous to the information given to lord Halifax, and before you knew any thing of D'Eon's evidence?—The first time (9th January) was previous to hearing any thing of D'Eon, but I went and conversed with Mr. Conway several times after; and, after I had been acquainted with D'Eon's overtures, he saw lord Hertford's letters and answers, and approved of them.

Did I not refuse to transmit the letter?—You did; but said it was a proper letter. I wrote four letters from Holland to Mr. Conway, but never received any answer.

Did you ever give any further information to lord Hertford than in the four letters read?—No.

Had you any intimacy with your informants at Paris?—It would be improper to answer that question, but they are men of credibility.

Had you any other information of D'Eon's overtures, but from general Conway?—The first intimation was from gen. Conway; then I applied to Mr. Hartly. Mr. Hartly told me, that D'Eon's letter was sent to Mr. Fitzherbert. Afterwards he informed me more fully, and named the two privy counsellors and the lady. He said, the lady is the Princess of Wales. I said, it cannot be, because my informant would not have forgot the name; and named another lady, the mistress of a man of quality.

Do you understand this overture of D'Eon's was contained in a letter to Mr. Fitzherbert?—Mr. Hartly told me so. I met him in a chair, and he said, all I have heard is, that D'Eon's letter was sent to Fitzherbert; that Mr. Pitt had been consulted, and had written a letter, dissuading them from proceeding. Mr. Hartly never told it me from his own knowledge.

Are you sure that this information was contained in D'Eon's letter?—No. Mr. Hartly never informed me how he came by the information, but said it was contained in a letter to Mr. Fitzherbert. Afterwards he named the two lords, but not from whom he heard it.

Did you ask Mr. Fitzherbert the particulars of the information received from D'Eon?—Our conversation was not above five or six minutes, when captain Hamilton interrupted it. Mr. Fitzherbert seemed disposed to continue the conversation in his presence, and asked me the employment of my informant. So I took my leave, thinking Mr. Fitzherbert's authority sufficient.

Why did not you pursue the enquiry at the second meeting?—I did not go to Mr. Fitzherbert again, because I was satisfied, and thought no further authority necessary; that he could not say it lightly to a stranger he never saw before.

Did not you require particulars of the information?—I wanted only to settle the fact, whether overtures had been made. But whether they had been made or no, I then thought it was the magistrate who was to enquire into the matter.

Had you any reason to think that overtures had been made by D'Eon except from conversations with Mr. Conway and Mr. Hartly before your first seeing Mr. Fitzherbert?—I had none.

Did you understand overtures were made by D'Eon directly, or through another person?—That was never explained.

Mr. *Blackstone.* Are you sure I directed you to go to lord Halifax?—Not directly to lord Halifax. Dr. Blackstone said, "you must by all means go to the ministry. It is an affair of an alarming nature." He sent three days after to know if I had been; for he said, "if you had not, I should think myself obliged, as a servant to the crown, to go and give it myself."

Did not I use topics of discouragement?—He said, "I pity you for what you must go through." That was all.

Mr. *Fitzherbert.* What words did I use to you?—I cannot say the precise words used by Mr. Fitzherbert, as to the two privy counsellors; but after I had mentioned their names, he acquainted me they were the persons named by D'Eon, and then asked if I had heard nothing of the Princess of Wales. I said no. And then he made the answer I mentioned before, which, I think, implied an acquiescence.

Was my answer confined only to the two noblemen?—I cannot recollect his words, but from the tenor of our conversation he acquiesced.

Did you apprehend my information went to any one else?—After the names of the noblemen were mentioned, he then said, "Did you hear nothing of the Princess of Wales?" I said No. Mr. Fitzherbert replied, "D'Eon says, the Princess of Wales had some of the money."

Mr. *Blackstone.* I took a minute of what passed between us; which I will mention to Dr. M. I took it immediately and communicated it the same day to an intimate friend, and it has never since been out of my custody.

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[The reading of this paper postponed for a short time.]

Did you shew this intelligence to any other person?—Mr. Hartly desired leave to shew it to lord Rockingham, and to the duke of Portland; but I do not recollect any other person. I never saw either of those noblemen.

Did you at any time before your advertisement, which has been read, shew it to any other person?—Mr. Conway and colonel Barré. I did not shew it to sir Joseph Yorke, but talked on it to him at the Hague.

Did you explain it to him?—Only what it related to. I shewed it to sir John Cust, and left it with him a week. Not to Dr. Markham, but mentioned it to him. To Dr. Barrington I did. Not to the bishop of Gloucester.

Did any person, to whom you shewed it, deem it worthy of credit or foundation to proceed upon it?—Dr. Blackstone desired me to carry it to the ministry. Sir John Cust said it ought to be enquired into. Mr. Conway said every man, in every station, should do all in his power to bring it to light. This he said when he was out of place.

Colonel *Barré*. At what time did you come to colonel Barré?—On the 12th or 13th of May 1765. He said, "I do not believe the charge. Is there not foundation to enquire on?" He said, "to be sure, many plots have been found out in England upon less foundation; but I do not believe it." Many other things might pass.

Did you not wish colonel Barré to stir this matter in parliament?—Yes; I thought it ought to be done immediately. I thought lord Halifax tardy. I thought the evidence would be lost. It was indifferent to me where truth lay. Colonel Barré said to me, he was at that time much acquainted with lord Bute, and did not believe it.

Did you not leave the papers with me two or three days?—I left them about 24 hours.

Can you recollect what passed the last two or three minutes?—It related to Mr. Macleane's letter.

Did not I tell you that this intelligence having passed through the hands of great and honest men, did throw a damp upon the enquiry?—I do not recollect it.

Were not these the last words I said—"After the gentlemen you have shewn it to, I think it an honour you do me in shewing it to me; and in return, I think it right to give you advice, and that is, that you think well before you go on such dangerous ground?"—I do not recollect it, but it might be so.

Lord *Beauchamp*. Did not you go to France to get information on this point on purpose?—No; I went there with no such intent.

Are you sure lord Halifax told you that he thought lord Hertford should have proceeded on that information?—Lord Halifax said, "If I had been lord Hertford I should have sent to —— to know what he had to say."

If the French subjects had been examined, would they have answered?—I left that to chance; if they had denied it, I should have done with it.

Did you not intimate that one of the informants expected an establishment in this country before he would give information?—When I talked with Mr. Conway, he said, "You may depend upon it the man will not discover without an assurance of being taken care of in England." It did not come from me, but Mr. Conway.

Was not the second informant a person in very indigent circumstances?—I cannot answer that directly, but by another question, "Whether lord Beauchamp did for that reason think him unworthy of his acquaintance?"

Mr. *Blackstone*. [Producing a minute taken immediately after Dr. Musgrave had been with him, the 10th of May, 1765, at half past eleven o'clock in the morning.]

Dr. Musgrave came and shewed me a written conversation between him and Mr. Le Beau, in the latter end of 1763; where he declared, that it was believed at Paris that lord Bute had received money for the peace; and many other conversations with another French embassador. The sum of the account was this; that eight or ten millions of livres had been remitted by a French banker, just before the duke of Bedford went to France. That this was divided between lord B. Mr. F. and a lady, name not mentioned; and that Mr. D'Eon or Mr. Descalier, could inform him of particulars. He also shewed me lord Holland's letters and answers. He told me he had communicated it to general Conway, and that he had learned from Mr. Fitzherbert that D'Eon tells the same story, except that he mentions the Princess of Wales, which Dr. Musgrave observed might be no inconsistency, if a

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maid of honour's name only was made use of, and the money paid over by her to the princess dowager of Wales. Dr. Musgrave seemed to be attached to D'Eon's cause, and believed the story of his assassination being attempted by count de Guerchy, and his coffers being searched. He asked me if this was sufficient to justify bringing it before the secretary of state. As our acquaintance was small, I was surprised. I told him that the affair was delicate, both as to things and persons, and that he should well consider the consequences if his friend should deny it. He said his friend was a man of honour, and knew he left Paris for that purpose. I begged to be excused advising him, but he would do right to consider, that it would depend on the conviction of his own mind, and his friend's veracity. It was equally a duty to disclose such a transaction on good foundation, and to stifle it in the birth, if founded on malice or ignorance. We parted, and he seemed inclined to proceed. I do not recollect the conversation he mentions three days after. It might be. I thought him such an enthusiast as might have disordered his imagination.

Mr. *Speaker.* The honourable gentleman delivered to me a copy of the paper he has now read; which has been in my custody ever since.

Dr. *Musgrave.* As to the second conversation, Dr. Blackstone will recollect it if I shew him his note, desiring me to come to him. I have not that note about me, but I am sure it is still in my possession. I do not know what Mr. Blackstone thinks of my enthusiasm; but I remember he trembled, seemed much affected, and let the paper drop, as in great agitation.

Sir *George Yonge.* After I had expressed my surprise at his coming to me, he told me he had laid the matter before lord Halifax, who was willing to receive information from any gentleman whatever. He pressed it so strongly that I thought he came with a message, but he did not say that. I said, "If lord Halifax will send for me I will wait on him, but I know nothing at all of the matter, with regard to the second meeting at Mr. Fitzherbert's, nor did I know he had told the story to Mr. Fitzherbert till I saw it in the papers."

Mr. *Fitzherbert.* I never remember being in the same room with sir George Yonge and Dr. Musgrave. Dr. Musgrave came and talked in the same stile, and told me the story he says I told him. I do not remember I said any thing at that time. The doctor came and told me this story. I will do myself the justice to tell all I knew at that time, though I do not recollect I told it him. We were then a good many of us in a society in Albermarle-street. I had an office in that society. When he had told me all he had to say, I wished to change the subject; he would not; so I told all I knew of it. Captain Cole, a gentleman of great admittance, had come to me, and said, D'Eon desires me to tell you he is apprehensive of being taken away by force, on account of a quarrel with count Guerchy, in which ministry would assist him. He desired me to communicate it to the society, which I did. He recommended D'Eon as an agreeable man. I communicated it to sir George Yonge, and desired him to go with me, because he could speak French, which I could not easily. No day was appointed. We never did meet. I never knew Mr. D'Eon: I never received a letter from him. As to going on with the conversation and naming the Princess of Wales, I have nothing to say to that, I have no trace of it in my memory: it must depend on our veracity; nor had I any direct message, but from captain Cole, from D'Eon, as to his apprehensions of being taken away.

Mr. *Speaker.* Dr. Musgrave, would you ask these gentlemen, or either of them, any questions?

Dr. *Musgrave.* I was not prepared for these answers: and I have no questions to ask them; only of Mr. Fox one question. [To Mr. Fox.]

Had you any conversation with Mr. Hartly, or Mr. Tyrwhit, on this occasion?—Never; directly or indirectly.

Dr. *Musgrave.* Mr. Hartly could give the House information on this subject. Is he here?—No; he is out of town.

Mr. *Macleane.* In the year 1764, Mr. Stuart and I went to Paris, in April; Mr. Stuart was ill, and desired to be attended by an English physician. I did not know Dr. Musgrave at that time. On enquiry, I found two English physicians there, Dr. Gem and Dr. Musgrave; I then went to Dr. Musgrave, and he attended Mr. Stuart as his physician. In that attendance he very abruptly told me he had a secret of the utmost importance. The next day he mentioned it again, and before Mr. Stuart he said, that the peace had been sold; that a million of money was paid for

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it; one half to the Princess of Wales, and the other half to lord Holland and lord Bute. I said it was a great secret indeed, but he ought to have good authority, as they were names of weight. I told him, I wondered he should trust his secret to me, a stranger to him. He said, we agreed perfectly in political sentiments, and therefore he mentioned it. I advised him to be cautious. He said he was certain, and told me who were his intelligencers, and that from the nature of their offices, they could not receive any hurt from it. When he told me who his intelligencer was, I pressed upon him why it could have no foundation in truth, that I had sufficient reason to wish him to conceal it, and desired him to conceal it, and desired him to call on me before he left Paris. Among other reasons I used, was that which he mentions in his narrative, came from him. I mentioned Le Borde's intimacy with two persons acquainted with the peace, and therefore probably it might be for that purpose. He told me he should leave Paris in a few days: I pressed him to give up his design, and that I had something to communicate to him before he went. He promised to dine with me. On his not coming, I was under apprehensions, and expressed them to Mr. Stuart. Major Maclane and I went to his hotel, and though we saw the doctor look out of the window, we enquired for him, and the servant said he was not at home, but that he was in Paris. I enquired again in the evening. They told me he went in the afternoon of that day. I then went and wrote my letter, which has been read, having told Mr. Fox the thing mentioned in the letter. When I received Mr. Fox's answer, I sent a servant express, who could not overtake him. The letter was forwarded: I received two answers from him; the first I have lost, it was to call me to an account for what I had done: in this, which is the second, and is very short, he says, the only reason he could not return was, his apprehension that he might injure the persons from whom he had the intelligence. I have frequently mentioned this to col. Barré, Mr. Sheriff Townsend, and several others. As our story differs materially in point of fact, the House will weigh whether I could have ever had any inducement to frame this tale.

(Dr. Musgrave says, he never wrote a letter to call him to account.)

Letter read: "I beg to be excused from answering your letter at present till I see Mr. Stuart, &c." I did, on my honour, receive another letter, and shewed it to several persons.

Dr. *Musgrave*. Did you decline introducing me to col. Barré?—Yes.

Did you not invite me to dine with col. Barré?—Yes; but you asked me to introduce you on this business, and I declined it.

Colonel *Barré*. Mr. Macleane invited several young men and me, and Dr. Musgrave to dinner, but no form of introduction. That was the only time I saw Dr. Musgrave, till he called on me in London.

Mr. *Macleane*. He told me he would apply to the House of Commons, &c. I said, you had better apply to col. Barré, who will make you drop your proceedings, though I cannot.

Col. *Barré*. I often heard Mr. Macleane speak on this occasion. He had given me a favourable impression of Dr. Musgrave's character. That was the reason I gave him the advice I did.

As you mention D'Eon in your paper delivered to lord Halifax, why did you say that you first heard D'Eon's name mentioned by Mr. Conway?—It was at Paris that I first heard D'Eon could discover it; but from Mr. Conway that D'Eon was disposed to discover it. Mr. Conway spoke of it as a report, that D'Eon had dropped hints of this matter, and then asked me, if I had heard it, and would go to Mr. D'Eon. I said I would not.

Have you any thing else to say, or any other information to give to the House?—I would make some remarks on the information which I received at Paris. I told lord Halifax when I first saw him, that this was not mere coffee-house discourse, but that I had received my intelligence from persons of credit. I mentioned to him the secretary of the Sardinian embassy. That the paper I then left him was not evidence. That I never considered it as such, but merely as a ground of further enquiry. I apprehend that enquiries made by magistrates, are previous to evidence. That when evidence is once given, there is an end of enquiry. That it is usual for magistrates to issue their warrants to apprehend and commit persons merely on suspicion, and this without evidence. I desired that he would, in the first place, send for sir George Yonge, and Mr. Fitzherbert, which I conceive he should have done. Indeed they were then both out of place. Why did he not send for them? that would have satisfied me. If they had

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confirmed what I had said, he should then have sent for D'Eon and have proceeded in the enquiry. This will be a standing lesson and example; an example what magistrates are to do in future. There may be hereafter, whatever there is now, real ground for suspicion of some conspiracy, the neglect of which may be attended with fatal consequences, and all men will be deterred from attempting to make the necessary discoveries. [Withdrew.

Sir *George Osborne* then observed on the whole, that the manner in which the doctor got his evidence was futile in the highest degree, amounting only to coffee-house discourses, with men of no account or possibility of knowing the things alledged; that it had appeared so not only to lord Halifax, but also to many gentlemen in opposition, to whom the doctor's secret had been entrusted, and who every one gave the same opinion; that the doctor appeared to him the last miserable engine of a despairing faction. He trusted lord Halifax was acquitted in the eyes of the whole House, from obstructing, in any degree, public justice, as indeed he had been from many other equally malicious charges on him; in particular, that of general warrants, in which it appeared to be against his own opinion; but over-ruled by the opinions of the law officers, and the practice of former secretaries, he had acted in them from his hand, not his heart. He therefore moved, "That it appears to this House that the information given by Dr. Musgrave, in the year 1765, to the earl of Halifax, at that time one of his Majesty's principal secretaries of state, and now laid by Dr. Musgrave before this House, was in the highest degree frivolous and unworthy of credit, and such as could not afford any reasonable foundation for prosecuting the enquiry demanded by the said Dr. Musgrave."

Mr. *Coxe* seconded the motion, but observed, that it was an infamous aspersion that Dr. Musgrave was the tool of a faction, he not being in any shape employed by any gentleman in opposition, but acting entirely from himself.

The motion was then agreed to.

*Debate in the Commons on a Motion, "That in Matters of Elections this House "is bound to judge according to the Law "of the Land, &c.**] January 25. The House having resolved itself into a Committee of the whole House to consider of the State of the Nation,

Mr. *Dowdeswell* begun, by observing, that it was always the duty of parliament to take into consideration any grievances or discontents of the people. That the present unhappy situation of affairs loudly called for the exercise of that duty; that it could not be denied but that there were such discontents in all parts of his Majesty's dominions, Britain, Ireland, the East and West Indies, North America, and even the little island of Jersey: That the causes of the discontents were many and grievous, each of which demanded a long enquiry; but that, for the present, he should only enter into that which more particularly concerned Great Britain, namely, the determination on the Middlesex election. To give, therefore, some hopes to the people that they should find some redress, which the exorbitant assumed power of the House of Commons so loudly called for; and to set that power of the House on legal grounds: he should move, "That it is the opinion of this Committee, that this House, in the exercise of its Judicature in Matters of Election, is bound to judge according to the Law of the Land, and the known and established Law and Custom of Parliament, which is part thereof."* The view with which this motion

* From the Gentleman's Magazine.

* "This was understood to be the leading proposition to a string of resolutions that were to lead to a condemnation of the principles of the determination in the Middlesex election. The manner of putting this beginning was full of parliamentary skill; the question being conducted by an experienced and able member, Mr. Dowdeswell. If the truth of the proposition was denied, a monstrous and alarming power would be assumed in parliament. If it was admitted, other propositions reflecting on the determination of the House would follow, connected with this, and perhaps equally hard to be evaded. If got rid of for the present by a previous question, it might return again to torment them daily.

"They, therefore, after admitting the truth, denied the necessity of coming to such a resolution, which standing alone might suppose that the House reflected on its own acts: and then moved an amendment, which should at once put an end to all hopes of their ever changing their ground, or giving way to the opposition; which was, that the following words should be added to the motion, 'And that 'the judgment of this House in the case of John 'Wilkes was agreeable to the law of the land, 'and fully authorized by the practice of parliament.' As this amendment was totally subver-

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was made, appeared, by his immediately adding, "If this House has acted by the law of the land, how is Mr. Luttrell member for Middlesex? If by custom and practice of parliament, where is that custom and practice to be found." Several quotations were then made from "Lex Parliamentaria," a book which contains many cases of members expelled for various causes, and the great question was coming on, when a member complained, that last year several people had gone down to Bedford to make free-men, to out-vote, and take away the birth-right of real free-men. Upon this,

Mr. *Grenville*, who suspected a design to divert the attention of the House, observed, that they were not then trying the right of the corporation of Bedford; and declared that he was for trying the great question then before the House.

Mr. *Rigby* replied, that he was sure nobody desired to avoid the great question, and that he had himself risen to say something with respect to the corporation of Bedford, that Mr. Grenville had said behim.

After much debate whether the precedents that had been produced, were or were not applicable to the case in question;

Mr. *Ongley* rose and said:

I do not pretend, Sir, to be skilled in precedents, or in the multifarious variety of those positive institutions which are called the law of the land. But I presume, according to the opinion of those who have most successfully studied them, that they are all founded upon reason, and consonant to it, and therefore that nothing which is contrary to reason and common sense can be consonant to law. That the members of this House are to judge of what is law, or at least, of what ought to be law; upon this general principle, appears plainly to me, from the very words of the writ that is issued for their election. That writ does not require the freeholders to elect a man versed in the precedents, the practices, and the reasonings of courts of justice, a man that has spent his life in sifting all that has been enacted, explained, re-enacted, and repealed in 20 vast volumes in folio, to see what remains of legal obligation: no, Sir, the writ, which may be presumed to speak the sense of the constitution in this particular, requires no such qualifications; it requires neither from county nor borough, any other than discreet men; and indeed it would be most unhappy for the government of this country, if any other personal qualifications were necessary; for it is certain, that at least four fifths of the members of this House of Commons have no other; and that no other will be possessed by four fifths of every House of Commons that shall hereafter be chosen.

I do not deny but that some rights as well of the members of this House as of their constituents, have arisen at different times from acts of parliament, but the far greater part of them have no such source; with respect, however, both to one and the other, good sense and discretion must regulate our conduct. We must never suppose, that we are bound to an absurdity, whatever may be found in ancient parchments, or traced in obscure history.

When the people, at whatever time, or for whatever purpose, appointed a few to act as representatives of the whole, their end could not possibly have been answered, if they had not given to the representatives the same power to act for the constituents, as the constituents had to act for themselves.

A power of preserving order and decency is essentially necessary to every aggregate body; and with respect to this assembly, if it had not power over its particular members, they would be subject to no controul at all. Where, but in this House, could a coercive power over its members be placed? It could not be placed in the King, or the House of Lords, because then the Commons would become dependant upon the other branches of the legislature. It could not be placed in its constituents the people, for they could not possibly meet to deliberate about its execution: all that the people could do in this case, would be to elect a second committee, or House of Commons, to form rules for the first; but that one House of Commons, or committee of the people,

sive of the principles upon which the motion was founded, it was accordingly opposed with great vigour, and the debates renewed with fresh warmth, till at length, upon a division, the numbers being 224 to 180, the question with the amendment was carried; and being now passed into a public resolution, and thereby become a full confirmation of the former decision on the Middlesex election, it put a final end to the hopes of those who still expected that the former determination upon that subject would have been rescinded." Annual Register.

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should have power over the members of another House of Commons or committee, and not over its own, is sure an absurdity too gross for any man to adopt. The right of the people therefore to judge of the privileges of their representatives, must necessarily devolve upon such representatives themselves, because, the exercise of such right is absolutely necessary, and it cannot possibly be placed any where else. If this be a right idea of the constitution of this House, there is certainly the greatest reason to fear that every attempt to check its power over its own members, will tend to subvert its independency, and bring the representative and the represented once more into that state of slavery, from which they have by various causes been gradually emerging for the last 500 years. The regulations of the House of Commons have, like all other laws, been the children of expediency, formed without precedent, and against precedent laid aside, when the reason of their establishment no longer subsisted.

This is the conduct that is indicated by discretion, and entered upon by necessity. And, without consulting journals, I will venture to pronounce, that this has been the constant practice of the House of Commons ever since it had a beginning, and must be its practice as long as it exists, or at least as long as it continues adequate to its original constitutional purposes.

Mr. *Thomas Townshend*:

I am sorry, Sir, to see gentlemen affect to treat this question, as if it related only to the privileges of our own members: it affects in a most essential point the right of our electors, the people of England; and whatever may be the origin of the laws, or rules, or precedents of this House, whether expediency, necessity, prescribed principles, or common sense, it is certain that they cannot operate upon those that are not subject to their jurisdiction. The people of England, Sir, by whose authority we sit here, do not surely hold their rights and privileges under the arbitrary will of this House, by whatever name gentlemen may please to call it. If that were the case, this House, instead of being a check upon the other parts of the legislature, to prevent tyranny, would itself, uncontrouled, be the most dreadful tyrant upon earth. In that case, Sir, I should see nothing in this country that could give it the preference above others: is the climate better, or is its produce more abundant? certainly not. It is the constitution of England only that makes it dear, and if this is to be subverted, the sooner we are conquered by a brave enemy, the better; it is less disgraceful to be subjects to France than traitors to ourselves. Let us not, however, lose sight of the question in debate, nor let it be supposed that I am denying any power to this House that it has been used to exercise, or that, consistent with our constitution and liberties, it can claim. If any crime appears to have been committed by a member after his election; or having been committed before, is first proved upon him, the House may interpose for one certain purpose, and no other. It may consider whether such criminal member is fit to execute the trust which has been placed in him, and it may decide the question in the first instance; but if, in consequence of this decision, the member is returned back to his constituents, and his constituents by a re-election, declare themselves to be of a contrary opinion, will any man say that in this case the will of the House, and not the will of the constituents, shall determine the question? and that not the county but the representatives of other counties shall contingently appoint its members? The members of this House, Sir, must not ask whether the man whom the electors have chosen, is fit company for them; he acquires an indisputable title to admission by that election, and that alone. His title is, that he is chosen by his constituents, not that he is adopted by the House, deriving his full power from those who sent him.

Mr. *Onslow*:

Sir; in answer to what the hon. gentleman over the way has said concerning the people of England, I will venture to affirm, that the people of England, considered either as a legislative or a judicative body, have no existence but within the walls of this House: so that if any dispute could possibly arise between the people of England and the House of Commons, it is here, and here only, that the dispute could be decided, and the House must become judge as well as party in the cause; I may not, perhaps, call this law, I may not, perhaps, think it worth while to call it reason; but I say it is that which upon all occasions must take place

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both of law and reason, it is necessity; and when there is but one way, in which a thing can be, it is folly to repine at its inconveniencies. Let any gentleman point me out a power to which the present dispute can be referred, and I will cheerfully concur in the reference: the King and the Lords are out of the question, and to appeal to the people, would imply this absurdity, that they had reserved their power of deliberation, after, (from experience that they could not exercise it themselves) they had delegated it for years to a smaller number.

The name House of Commons, Sir, is misunderstood; instead therefore of giving this assembly an ambiguous appellation, I shall call it the people of England. The present dispute will then appear to be not between the House of Commons and their electors, but between almost the whole people of England, and a very small portion of them called the freeholders of Middlesex. What has been offered by the hon. gentleman who spoke last, concerning our right to expel, and our obligation to re-admit, has, I confess, the appearance of reasoning; but the moment we consider the gentlemen sitting on those benches, as so many counties, cities, and boroughs, voluntarily met together, and forming a regular society for the management of their own concerns, the error of this reasoning becomes manifest. Change the proposition of the House of Commons expelling Mr. Wilkes, to that of the whole people of England expelling a two hundred and fiftieth part of their body, the freeholders of Middlesex, and none of the hon. gentleman's arguments can possibly take place. The same right which belongs to the people at large, must belong to the people here contracted by representation: this right, however, is more than upon the present occasion is claimed. The question is not now, whether a county shall be represented, but whether the most exceptionable man in the kingdom shall represent it.

Sir *George Yonge*:

I am very ready, Sir, to join issue with the hon. gentleman, who referred the question before us, to the determination of common honesty and common sense, for I am as positive, that sense and honesty would determine on my side, as he affects to be that they would determine on his. But I have a more formidable antagonist in the necromancer who has conjured all the counties, cities and boroughs of two kingdoms, within the walls of this House, and displaced the members to make room for them. I am not however afraid even of him: I know that "he is of his father the devil, and that the works of his father he will do," but I trust that I shall be able to put both him and his father to flight, and that "their works will follow them:" I will at least resist them; and I know, that when they are resisted, they can never prevail.

He says, that we have the same right to expel a member, as the people of England have to expel the inhabitants of a county, from a share in the legislature, "because the same right which belongs to the people at large, must belong to the people here contracted by representation;" which is just as much as if he had said, a servant has the same right to commit a robbery as his master, because any right which belongs to the master, may be delegated to the servant. It is the right of the people to exclude a county, that we deny, as we do that of a master to commit a robbery; the right of the representative and servant, therefore, are out of the question. I should be glad to know upon what principle of the constitution, or, indeed, what principle of general society, the minority of the people of England, can pretend a right to disfranchise the majority: there is but one principle that I know of, upon which it can be done; a principle, to which I fear the hon. gentleman and his party, are too much attached, power. The will of the strongest is the tyrant's rule of right, and by no other rule can the many oppress the few: if there had been a stipulated covenant between the county of Middlesex on one part, and the rest of the kingdom on the other, under the penalty of disfranchisement on the part of the county, and the penalty had been incurred by a breach of the covenant, then indeed it might lawfully have been inflicted, and sense and honesty will concur to tell us, that it could not lawfully have been inflicted on any other condition. It is, I know, very true, that the county of Durham once made no part of our legislature, but there is as much difference between not possessing a privilege, and having a privilege that is possessed taken away, as between having no money to lose, and being robbed of money on the road.

If, then, the whole people of England,

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could not expel a county from their common-hall, but in consequence of the breach of some covenant, under which they had voluntarily subjected themselves to such a penalty, surely, as I observed before, there is no shadow of pretence to justify an act, which is eventually the same in their deputies, their attornies, their stewards, or, as a distinguishing gentleman has thought fit to call them, their plenipotentiaries.

We have been told of another principle, by which all law and all reason are supplanted, necessity: there is, indeed, a kind of necessity which is neither consonant to reason, nor subject to law: of this kind, as far as we can judge, is the physical necessity that produces pestilence, famine, and earthquakes: but moral necessity, which is what the hon. gentleman means, if he means any thing, is another thing. Moral necessity results from reason, and is the foundation of law: it is that necessity which urges a man to eat when he is hungry, and take physic when he is sick: it is founded upon general advantage, and never can subsist without it, as there can be no moral necessity for a man not to eat when he is hungry, or take medicine when he is sick. Moral necessity, therefore, can never urge a community, any more than an individual, to any measure that is not for its advantage upon the whole, and surely it is not for the advantage of any society, that one part of it should be oppressed by another. The first laws and the first government, were the effect of a moral necessity, to prevent the mischiefs of that perpetual hostility, which an opposition of interest could not fail to produce, from the first moment there was what we call property in the world; and except the learned gentleman can prove, that it is better for one part of a society to oppress another, than for all to enjoy common privileges, he can never found the measure for which he is an advocate, upon moral necessity.

He says, indeed, that the House must become judge and party in its own cause, there being no other power to which the dispute in question can be referred: if such a power can be found, he has offered to concur in the reference. I agree with him, Sir, that the King and the Lords are out of the question, as moving in the first instance; but I confess I do not see the absurdity of appealing to the people; the hon. gentleman says, that it would imply their having at once reserved their power, and parted with it for a certain time by delegation; but who has told this gentleman, that the act of delegation in the people of England to their representatives, is irrevocable? I say that upon every principle of constitutional right, upon every principle of general society, it is revocable; and I say there is a moral necessity that it should be so. It is as necessary that the people should revoke their delegation, when their representatives betray the rights they were chosen to defend, as that an individual should revoke a warrant of attorney, when his substitute for the receipt of money converts it to his own use: and to suppose any society, under a necessity of losing all that is dear in freedom and independence, in consequence of a temporary delegation of its power to substitutes or representatives, is an affront to common sense: the constitution of England involves no such absurdity; by the constitution of England the people have a right to petition the King, to give them a new choice, by dismissing representatives who betray their trust; and by the constitution of England, the King has a right to dismiss them. Let us then hear no more of "the tyrant's plea, necessity:" and when we complain of evils, let us no more be insulted by a pretence that they are irremediable. Will the people's petitioning the King for a dissolution of the parliament, render them dependent upon the royal authority? Will the King's compliance with such petition, render them so dependent? Just as much as presenting a bill to his Majesty, after it has passed both Houses, just as much as his Majesty's signing a bill so presented As this House, therefore, neither by any principle of the constitution, or of general society, or of moral necessity, is party and judge under no controul but the caprice of its own will, I shall support the motion, that this House ought to judge of elections by the laws of the land.

Mr. Attorney-General *De Grey:*

Sir; instead of following the hon. gentleman near me, over the vast tract of ground he has passed, I shall endeavour to bring him back to the spot from whence he set out, where only our business is to be done. I apprehend that the question upon which this motion turns is simply, Whether this House has a right to expel its members? That they have not such a right formally, some have been bold enough to

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assert, and some have been weak enough to attempt to prove: but I have nothing to do with them, they are *felo de se*, and I shall waste no time in killing dead men; but some there are, who with somewhat more plausibility deny it virtually, and maintain that to expel, is nothing more than to offer the same member again to his constituents. But as the most sober and rational part of the advocates for this opinion admit that the House can expel as often as the constituents re-elect, it is plain that all this mighty contest is about a mere form, productive of endless contention, which it is the principal purpose of all law and government to prevent. It was easy for the House of Commons to have expelled Mr. Wilkes twenty times, and to have indulged the wrong-headed electors in twenty riotous holidays at Brentford, where the mob would have drank more beer, for which the publican will probably never be paid, by the great patriots who gave orders for its being drawn; but the House preferred the measure they have taken, as more consistent with the public peace, and suitable to the dignity of parliament: that they did so in conformity to the law of the land, is manifest upon this plain principle, that it cannot be the law of any land upon the face of the earth, to give one person a right of doing, what another has a right to prevent.

But it is said, that the establishment of a virtual right in this House to expel its members, that is, to prevent those whom they turn out of their House one day, from being violently thrust in the next, may be applied by the majority to exclude the rest: but he who can extend his fears to a circle that includes all possible mischief, requires rather pity than argument. That the power of the House for which I contend, is susceptible of abuse I do not deny, and perhaps our journals can furnish more than one instance, in which such abuse has already happened: but these are evils which ever have been, and ever must be borne, because there is no possible institution which can exclude them; they are intailed upon us not by moral, but by physical necessity, by the same necessity, which, as an hon. gentleman has observed, entails upon us the evils of plagues, famine, and earthquakes. Is it not manifest, that the power intrusted with the other parts of the legislature is equally liable to abuse, and that through the microscope of imagination they would appear equally frightful and enormous?

It may be said, and said truly, that the unlimited power of pardoning criminals, enables the crown to set the assassin above law, and that the House of Peers may, in contempt of law and justice, dispossess any man of his property, by exciting frivolous claims upon which they are to decide in the last resort: but has any man yet suffered these mischiefs? or does any man seriously think he shall suffer them? Those who do, may seriously hear the abuse of the power contended for in the House of Commons, but let them act consistently, let them never walk in the streets, because some have been killed by the falling of a tile from a house; let them never walk in the fields, because others have been gored by a bull.

As every action exposes us to danger, all power is capable of abuse; yet there must be power wherever there is government, and there must be government wherever there are men. The three parts which compose the legislative power of England are equal, yet scarce ever contest, for their power has different objects: they are mutually checks upon each other, yet are acknowledged to be perfectly independent: our constitution, then, being composed of three powers, each absolute in certain things within its own department, and by that means formidable to the other two, stands firm like a piece of skilful masonry, merely by the equipoise of its parts: take away ever so little weight from one, and the whole will immediately fall into ruins.

This nice but comprehensive system, however, was not conceived at once by legislative wisdom: it has been the progressive work rather of feeling than thought, for 700 years; it is not derived from any prescribed rules, but from plain sense, discovering utility and pursuing it wherever it was found. These are the principles upon which it was formed, and it is only upon these principles that it can be secured.

Let us, then, preserve the independence of our own body, as involving the liberty of the people, and defend it against the people themselves misguided and inflamed by faction and self-interest, with no less activity and perseverance than against the Crown or the Lords, and look up with affection and gratitude to the prince, who, knowing the value of our constitution, as well to himself as to his subjects, has nobly rejected an opportunity which the late Petitions have given him, of destroy-

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ing the equilibrium of the constitution by increasing his own power, which a sovereign less virtuous and less wise would have embraced.

General *Conway.* I cannot help expressing my concern that so much time has been taken up concerning a motion which seems to me to be wholly unnecessary. We might, in my opinion, as well have moved that Magna Charta is a good law, or that two and two are equal to four. Do not let us be drawn in to give a negative to self-evident propositions; neither let us be guilty of the absurdity of appearing to establish its truth.

Alderman *Sawbridge.* If Magna Charta had been evaded by a resolution of this House, it would have been equally proper to have made the same resolution with respect to Magna Charta, that is now moved with respect to determining elections.

Mr. *Onslow.* The best way to get rid of the motion, is to move for the chairman to leave the chair.

Sir *Anthony Abdy.* This indeed is a short and effectual way of doing the King's business, and comes with an admirable grace from the King's servants.

Lord *North.* We shall not have recourse to any such expedient. I should be glad to know what motions are to follow; if I am not to be told, I shall move that this may be amended.

Mr. *Dowdeswell.* I have other motions, but must decline saying what they are, till this is determined.

Lord *North* then moved, that the motion might be amended, by adding thereto these words; "And that the judgment of this House, declared in the Resolution of the 17th of February last, 'That John Wilkes, 'esq. having been in this session of parliament expelled this House, was, and is, 'incapable of being elected a member to 'serve in this present parliament,' was agreeable to the said law of the land, and fully authorised by the law and custom of parliament."

Mr. *Wedderburn* observed, that lord North, with respect to his motion, acted like an old woman, who being examined as a witness, and asked her name, said she would not tell it, till she knew what questions were to follow; he said he was glad the noble lord had nothing to object to the question but that it was unnecessary, but hoped that objections of another kind against the amendment were so manifest, as that no gentleman would vote with him in it.

After some farther altercation about the sense of the people with respect to the judgment of the House, mentioned in the amendment,

Mr. *Grenville* said, that if the majority of the freeholders of property, did not sign the petitions, neither could it be said, that the majority of the freeholders of property signed the addresses. It was reported, he said, that these addresses were obtained in London and Surry, by the giving of lottery tickets.

Mr. *Onslow* said, that the insinuation of lottery tickets was false with respect to Surry, whatever it might be with respect to London.

Mr. *Grenville* replied, that if the report was not true, the treasury, who had the list, should prove it to be false.

Lord *North* answered: The list is at the Bank, open to all who wish to inspect it; and therefore a declaration on the part of the treasury, is unnecessary. It is indeed true, that a certain little gentleman of Surry had some tickets, but nothing can be inferred from that, for the little gentleman signed the address and petition too.

Upon a division the question was agreed to with the Amendment, by 224 against 180.

List of the Minority.

Abdy, sir A.	Carnac, J.
Allanson, Charles	Cavendish, lord G.
Allen, B.	Cavendish, lord F.
Astley, sir Edw.	Cavendish, lord J.
Aubrey, J.	Cavendish, H.
Barré, col.	Cholmondeley, N.
Barrow, Cha.	Clarke, G. P.
Beauclerc, Aubrey	Clavering, sir T.
Belasyse, lord	Clayton, sir Robt.
Bertie, P.	Clive, lord
Bethell, Hugh	Clive, Geo.
Blacket, sir Walter	Cordington, sir W.
Blacket, sir Edw.	Colebrooke, sir G.
Bridgman, sir H.	Cornwall, Ch. W.
Brett, sir Piercy	Coventry, Tho.
Brickdale, M.	Coxe, R. H.
Buller, J. jun.	Crosby, Brass
Burke, E.	Damer, J. jun.
Burke, W.	Damer, Geo.
Byng, G.	Davers, sir Cha.
Calcraft, J.	Dawkins, H.
Calcraft, T.	Dempster, Geo.
Calvert, N.	Delaval, Geo.

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Donegal, earl of
Dowdeswell, W.
Drake, W. jun.
Dummer, T.
Dunning, J.
Featherstonhaugh, sir M.
Fife, earl of
Finch, S.
Fitzmaurice, T.
Fletcher, sir Rob.
Fletcher, H.
Foley, T. sen.
Frankland, sir Tho.
Frankland, W.
Freeman, T.
Fuller, Rich.
Garth, Cha.
Glynn, serjeant
Goddard, W.
Granby, marquis of
Graves, W.
Gregory, R.
Grenville, George
Grenville, Henry
Griffin, sir John
Grosvenor, T.
Grove, W. C.
Hampden, Tho.
Hanbury, J.
Hamilton, W. G.
Harbord, H.
Hay, Tho.
Herbert, Rob.
Hobart, G.
Hope, J.
Honeywood, gen.
Hotham, B.
Howard, gen.
Howard, Tho.
Hunt, G.
Hussey, W.
Jennings, Philip
Irwin, gen.
Johnston, Geo.
Keck, A.
Keppel, adm.
Keppel, gen.
Ladbroke, sir R.
Lambton, gen.
Lascelles, Edwin
Lascelles, Daniel
Lascelles, Edward
Legh, P.
Lethieulier, B.
Ludlow, earl
Luther, J.
Mackworth, Herb.
Manners, John
Manners, Geo.
Martin, Jos.
Marsham, C.
Maugier, J.
Mawbey, sir J.
Meredith, sir W.
Milles, R.
Molyneux, T. M.
Montague, Fr.
Murray, Ja.
Musgrave, G.
Norris, J.
Osbaldiston, F.
Page, Fr.
Parker, J.
Pennant, R.
Percy, earl
Phipps, capt.
Pitt, T.
Plumer, W.
Plumtree, J.
Popham, Edw.
Poulett, Geo.
Pownall, Tho.
Pratt, R.
Pryce, Chace
Pultney, W.
Ridley, sir M.
Ridley, M.
Rouse, sir John
Rushout, J.
Saville, sir Geo.
St. Aubyn, sir J.
St. Leger, A.
Salt, S.
Sackville, lord G.
Saunders, sir C.
Sawbridge, J.
Scawen, J.
Scroope, T.
Scudamore, J.
Seymour, H.
Skipwith, J.
Standert, F.
Southwell, Edw.
Stepney, J.
Strachey, H.
Stuart, H.
Sutton, lord Geo.
Sutton, Richard
Taylor, Paris
Tempest, J.
Thomond, lord
Thompson, B.
Thoroton, T.
Townsend, James
Trecothick, B.
Turner, Charles
Verney, earl
Vernon, Ven.
Walsh, J.
Walsingham, B.
Walter, J.
Weddell, W.
Wenman, lord
Wedderburne, A.
West, J.
Whately, T.
Whitworth, R.
Willoughby, T.
Winnington, sir E.
Worge, R.
Wray, sir C.
Yonge, sir G.

TELLERS.

Vincent, sir Francis
Townshend, rt. h. T.

January 31. The House having again resolved itself into a Committee on the State of the Nation,

Mr. *Dowdeswell* observed, that after the Resolution the Committee had come to at their last sitting, the next step, in course, must be to declare, that a resolution of one House of Parliament did not create a law. The reason of this he shewed in the distinction between the legislative and judicial capacity of the House. In the former, they were only a part of the great body of the nation, controuled by the Lords and King, over whom again they had a controul; and in the latter capacity, as far as regarded their own members (under the restrictions of the first resolution), they were absolute: that if the House could, of itself, create an incapacity and then decide on that incapacity, it would be a despotic power lodged in one branch of the legislature, and which must end in the most absolute tyranny: that to quiet the fears of the people on this last subject, it was necessary for the House to disclaim any such pretensions; and he would therefore move; "That by the Law of the Land, and the known law and usage of parliament, no person, eligible by common right, can be incapacitated by Vote or Resolution of this House, but by act of parliament only."

Mr. *Hampden:*

I rise up, Sir, to second the motion of my hon. friend, but all argument to prove the position seems to be precluded, for the thing to be proved is equally manifest with any axiom that can be laid down in order to prove it: the only doubt that I think can arise, or rather the only objection that can be urged to serve the purposes of those who do not and cannot doubt, is concerning the expediency of giving the sanction of a vote to a principle which cannot be controverted. In answer to this, I shall only say, that such a resolution seems to be necessary as a barrier against any measures which are contrary to this principle, and a standard or rule of this House, by which any past measure may be judged of, without looking farther. Every wise and good legislature may be said rather to declare what is right than prescribe it. It was right that every man's life and property should be inviolate before any law was made to secure them by punishing robbery and murder. The principles of this motion being built upon rectitude equally incontrovertible, is no rea-

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son why we should not give them the sanction of our authority.

Lord *Clare:*

I have an objection to the motion besides that which has been just suggested to be the only one that can be brought: if we come to the resolution proposed, we shall incur the disgrace and danger of a House that is divided against itself, for it is diametrically opposite to the last resolution which we came to in this very committee; I will not pay so bad a compliment to this House as to suppose that such resolution was contrary to self-evident principles of right, which are the foundation of all law, and therefore I cannot suppose with the hon. gentleman that the resolution now moved for, is consonant to such principles. I do not pretend that Mr. Wilkes is incapacitated by act of parliament, yet I say that in my opinion he is legally incapacitated, and as in this particular my opinion agrees with a resolution already past, I cannot concur in this motion for a contrary resolution.

Captain *Constantine Phipps:*

Sir; I agree that laws cannot make the difference between right and wrong, but they declare what is right and wrong, to prevent the artifices of sophistry, and the labour of deduction, and they enforce the one and discourage the other by securing advantages and inflicting punishment. The constituent parts of the legislature of this country are well known: nothing is law that restrains common right, but what receives the sanction of their united acts, and by laws which have received that sanction, judges and juries, and even Houses of Parliament, are regulated and restrained, as well as private individuals. The law of the land might have incapacitated Mr. Wilkes, by adjudging him to have forfeited his common right, and the laws of the land restrains us from incapacitating him, his common right remaining till such law takes it away: I am therefore for precluding farther debate on this subject by the resolution now moved for.

Mr. *Rice:*

We have already voted that the transaction in question was agreeable to the law of the land; to what purpose then is it for gentlemen to insist that we are not at liberty to act contrary to the law of the land?

Mr. *Howard:*

Gentlemen have objected to the motion of my worthy friend, by saying that the House would, by the resolution proposed, be divided against itself; but as two negatives are known to make an affirmative, I shall give my vote for the motion, upon his principle, that the House may not be divided against itself. We voted the return of Mr. Wilkes as legally elected to be right, and we afterwards voted that he was not capable of election; thus were we divided against ourselves, but if now we vote that Mr. Wilkes was not incapable of election, we shall unvote the contradiction, and so get right at last. If the resolution of this House incapacitated Mr. Wilkes, how came the sheriffs not to be bound by it? The truth is, the sheriffs were neither bound by it, nor even supposed to be bound by it, by those who insisted that the vote was law; they were bound by the laws of the land and their oaths, and such was the force of this truth, that it was assented to by necessity, and the assent declared before its consequences were seen. We have been told by an hon. gentleman (Mr. Onslow,) that the sense of many respectable and uninfluenced persons without doors was declared to be with the House in the rejection of Mr. Wilkes, upon a supposition that our vote incapacitated; but will that hon. gentleman abide by his declaration? Will he now stand forth and say that no influence was used in the county to which he particularly alludes? Will he say that no honours were conferred on presenting the Surrey address?

Mr. *Blackstone:*

Sir; I think it incumbent upon me to declare, that in my opinion, this House is competent in the case of elections, and that there is no appeal from its competence to the law of the land. There are cases in which the other House is competent: if the House of Lords in these laws should determine contrary to the law of the land, what is the remedy? and what is the remedy if the privy council, or the court of delegates should make such a determination? If such resolutions of the Lords, the Council and the Delegates are final, why not the resolutions of this House? As to the question whether expulsion does of itself imply incapacity, I have never answered it in the affirmative, neither have I ever declared the contrary.

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I did not vote in the question last year, and I shall not, by any vote that I may now give, be included in that question.

Mr. *Dunning:*

Sir; if it had not been too late I should have spoken in the last debate, in answer to a learned gentleman, who among other persons that are allowed to be incapacitated, and yet are not incapacitated by law, mentioned paupers. I shall therefore now take up the question, and deliver it as my opinion that paupers are incapacitated by law; paupers from the first æra of votery were excluded. The law has virtually excluded them by having never given them a right. None had a right to vote for members, who could not contribute to pay them, for at that time it is well known the members had wages for their service: certificate men, as they are called, were also excluded for the same reason; they were supposed to be residents of the place whence the certificate came, as they were liable at any time to be claimed by that parish. As an argument to prove that expulsion incapacitates in this House, it was said that a person expelled a corporation for perjury, is not qualified for being replaced; but though I admit the fact, I deny the inference; such a person's incapacity does not arise from his expulsion, but his perjury. That expulsion incapacitates seems now, indeed, to be given up: and it seems clear to me that if expulsion does not incapacitate, the House, of itself, cannot create incapacity. If in Mr. Wilkes's case you have acted agreeably to the resolution now proposed, you ought to thank those who made the motion; and if not, you ought to thank them for offering you a line of direction in future times.

Dr. *Hay:*

Sir; I am always sorry to differ from the learned gentleman who spoke last, but I must say, that in my opinion, expulsion does imply incapacity; if not, the pretended right of this House to expel is altogether nugatory and ineffectual, and amounts to nothing more than a right of declaring a mere speculative difference of opinion from that of the electors of a county; a right which is as amply enjoyed and exercised in every coffee-house-club, as in this assembly.

Mr. Justice Blackstone supported the opinion of Dr. Hay, and was answered by Mr. Edmund Burke. Mr. Charles Fox spoke in answer to Mr. Burke, but the topic has been so exhausted, that the speeches verbatim would neither contain any thing new, or exhibit any thing in a new light.

Lord *North:*

Expulsion, Sir, is certainly one of the oldest rights of this House, and it cannot be denied that expulsion has hitherto rendered the party incapable of sitting in the same House; will you, then, condemn the judgments of parliament? Pass a vote of condemnation extrajudicially without any case before you? Surely such a vote will be a reproach to your own acts, and throw an indelible disgrace upon your proceedings in a future session: it is not the ministry but the House of Commons that is concerned in this debate, and therefore I move to leave the Chair; my intention however is not to put an end to the committee, but only to this question, and if my present motion is carried, I will then move to revive the committee. [This motion not being seconded, the debate went on.]

Mr. *Wedderburn:*

When this committee sat last, the conclusion that it came to concerning this question, was in every respect strange and unnatural. The resolution now moved for will put all right. The noble lord asks, will the House of Commons censure and disgrace itself? let me ask in my turn will the House of Commons compose the minds of the people? will they recover the good opinion and confidence of those whom some gentlemen have been pleased to call, the rabble, the base-born, the scum of the earth?

Mr. *Edward Thurlow:*

Sir; as the argument now seems to be carried on by questions, I shall ask in my turn, how came the House of Commons to determine who should sit among them formerly, if they cannot determine who shall sit among them now? how came they to determine that the Attorney General, the Solicitor General, and the Masters in Chancery could not sit here, because they might possibly be called upon to attend the House of Lords; and how came this determination to be acquiesced in till these persons were re-admitted by a subsequent vote? There is a well-known case, which shews it to be so in the time of queen Elizabeth, that of the Soli-

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citor General (Onslow) who was chosen Speaker.*

Mr. Serjeant *Glynn* observed, that the House had a power of restraining its members, as to rights which interfered with their duty and situation, as members, either in point of attendance or independance; but that it did by no means follow, that it could deprive them of their common right; and therefore the instances which had been given, with respect to the Attorney and Solicitor General, and Masters in Chancery, were not in point.

Mr. *Beckford* (lord mayor of London,) said, that the parliament should have done in this case, as it did with the South Sea Directors, who were incapacitated by a bill. Corporations are the creatures of the crown; we, said he, are the creatures of the people; and however some gentlemen may affect to lessen their importance, by opprobrious names, the greatest rascals will be found to be those in laced coats. He that has forty shillings a year, is as good a man, and has the same rights in this country, as he that has an annual revenue of two thousand pounds. I never look for honesty either at St. Giles's, or St. James's.

Mr. *Thomas De Grey* observed, that the petitioners had nothing to lose, but a great deal to get; that all who subscribed the petitions were in that predicament.

Upon this he was called to order by Mr. Sheriff *Townshend*, who asked what the gentleman meant by the subscribers of petitions having nothing to lose, and much to get.—This produced a warm altercation, in which the Committee lost sight of the question, and never recovered it. Mr. Cornwall and lord Barrington exchanged some expressions of quick resentment.

Colonel *Barré*:

Sir; the premier, (duke of Grafton,) has resigned, and it may be said of him, "that nothing in his office, became him like the quitting it." There was some honour as well as prudence, in leaving a distempered administration, in which he must give and receive infection. A noble lord, who has succeeded to the danger and disgrace, said in a former debate, that it was not ambition, but the hope of doing good, which induced him to accept of the office he held: and it is not much to his honour or our comfort, that they were the very words of Oliver Cromwell, when he did this nation the favour to accept the Protectorship. I suppose lord North is now First Lord of the Treasury, Privy-Seal, Commander in Chief, a double Lord of the Admiralty, Vice Treasurer of Ireland, and perhaps Lord High Chancellor; for I do not find that any body else will take the seals.

Lord *North* replied with great spirit and good humour: The gentleman does me honour in deviating from this great question, to mention a man of so little consequence as myself: as to the noble duke, whose merit I know, and whose merit he seems disposed to acknowledge from the moment that he went out of office, he is not much obliged to him for his compliment, though, perhaps, it is the greatest he can pay him. As to places, a subject upon which that gentleman and his party are particularly eloquent; it is true, that many are now vacant, which I hope will be soon filled up with men of ability. Will the hon. gentleman have one? I wish he would.

Colonel *Barré*. Places must certainly go a begging, when they are offered to so insignificant a man as I am. No, Sir, I refuse them with contempt.

Mr. *Grenville* then made an attempt to recover the question, and said: I fear both Houses have been guilty of wilful error. I have sat thirty years in parliament, and I think I cannot be mistaken; I speak from what I have seen, and I am sorry for it. Those that say all they like, may chance to hear what they do not like.

Mr. *Luttrell*. It is very true, Sir, that those who say all they like, may chance to hear what they do not like. The hon. gentleman, I believe, will not much like to hear, that having been traduced by a libel, I found, upon the examination of a printer, that it came from a near relation of that hon. gentleman.

Mr. *Grenville*. Let him make the charge good: appoint a committee to enquire: I declare that I never was concerned either directly or indirectly in any such libel, let it have been traced to whom it would.

Sir *Gilbert Elliot* then spoke warmly, and with some relation to the question; he concluded by saying, that there seemed to be a combination to sweep away the old furniture of St. James's, and to sweep away that House.

Mr. Whitworth declared the constitu-

* See vol. 1, p. 704.

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tion to be totally annihilated, and Mr. Cavendish offered something in favour of the question, upon which,

Mr. Sheriff *Sawbridge* got up, and spoke to this effect: Mr. Luttrell told me that a printer said, I had indemnified him for printing a libel on Mr. Luttrell, and Mr. Sheriff Townshend; but upon enquiry, the printer utterly denied it.

Mr. *Luttrell.* One man who was in office under the late chancellor, I think he was a secretary, fell upon his knees to me, and begged mercy! crying out, Good God! What will not the rage of party do!

Mr. *Grenville.* I desire that the House will appoint a committee, to enquire whether I have ever been concerned in a libel, and who has.

Mr. *Luttrell.* I did not charge that gentleman.

Mr. *Walsingham.* The noble lord who was hinted at by Mr. Luttrell, in what he has alledged against a near relation of Mr. Grenville's, (lord Temple) has given me authority to say, that he knew nothing of the letters which he calls libels.

The debate thus terminated, having continued till near one o'clock.

*Debate in the Commons on Ordering certain Words of the Speaker to be taken down.**] February 16. Sir Francis Vincent reported from the committee on the State of the Nation, the Resolution they had come to, "That this House, in the exercise of its judicature in matters of election, is bound to judge according to the law of the land, and the known and established law and custom of parliament, which is part thereof; and that the judgment of this House, declared in the Resolution of the 17th of February last, 'That John Wilkes, esq., having been in this session of parliament expelled this House, was, and is, incapable of being elected a member to serve in this present parliament,' was agreeable to the said law of the land, and fully authorized by the law and custom of parliament."

Sir *William Meredith* observed, that the said Resolution contained a complicated question, and that it was the undoubted right of any one member of the House to have it separated, before any question could be put upon it.

Mr. Thomas Pitt and Mr. Grenville warmly declared themselves of sir William's opinion.

The *Speaker* said, that as he was scarce warm in the Chair, it would have been but candid in sir William to have apprized him of his intention to call upon him for his opinion, that he might have been prepared: he, however, had examined the Journal, on that head, and cited a case or two.

Sir *William Meredith* said the Speaker had used him very ill, in taking notice of his not giving the Speaker notice of his intended motion. He appealed to the House if public notice had not been given in the committee on the State of the Nation, when it was declared that it would be attempted to be divided. Even the cases which the Speaker had cited out of the Journals shewed that this was so understood by the Speaker. It was not necessary for any member to acquaint the Speaker of his motions; and he should think himself the less so, as the Speaker had shewn, from his knowledge on this question, that he had less occasion to do so.

The *Speaker* on this got up and said: In candour I did expect he would have communicated his motion to me; but I find I am not to expect candid treatment from that gentleman.

The House then called out, "Take down his words."* The Speaker, when

* From the Journals, Gentleman's Magazine, and London Museum.

* "Not finding any precise rule, by which it can be collected 'what are the directions of the House,' and being of opinion, that the Speaker is the only person from whom the Clerk ought to receive the sense, or directions, or orders of the House; the rule I have laid down to myself, and have observed upon these occasions has been, to wait for the directions of the Speaker; and not to consider myself as obliged to look upon the call of one member, or any number of members, as the directions of the House, unless they are conveyed to me through the usual and only channel by which, in my opinion, the Clerk can receive them. I was therefore put under very extraordinary difficulties, when, upon the 16th of February 1770, exceptions were taken to some expressions, used from the chair by sir Fletcher Norton, then Speaker; but, notwithstanding the loud and repeated cries of several members, and that I was often particularly called upon by Mr. Dowdeswell, and many others, to do my duty, and write down the words, I recollected my own rule, and declined writing them down, till I had the consent of the Speaker for so doing: and if the Speaker had not given me that consent, I should have persisted in declining to take them down; and would afterwards

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the confusion was a little subsided, disired he might finish his sentence; which he did; and then the words were taken down by the Clerk at the table, thus: "When I expected candid treatment from that member, I was mistaken; for I find I am not to expect candor from that gentleman, in any motions he is to make to the chair."

And the said Words, so taken down, being read to the House;

Mr. *Speaker* declared, That those were not the words which he had made use of, but that they were as followeth: "In candor, I hoped he would have informed me of the motion he intended to make; but I now find, from what the member has said, that I am not to expect that candid treatment from him:—for he said in his speech, That, from this time forward, he will have no communication with the Chair."

The House was now in an universal uproar; this addition by no means altering the sense of it. Sir William Meredith complained of the most unjust treatment in the censure these words contained of his candour. Lord North and the ministry justified them: for some time no person could be heard distinctly. The minority represented the heinousness of the words, whilst the others vindicated them: at length, when the noise subsided a little,

The *Speaker* said, "he did not mean any general reflection on the character of the member."

Lord Granby, lord G. Sackville, and two or three more, said this apology was sufficient from one gentleman to another, and hoped sir William would take them as a sufficient apology, and let the thing drop.

Mr. *Grenville*, after laying down very properly the bad consequence of such words coming from the Chair, said, as the Speaker had made that apology, by saying that he did not mean any reflection on sir W. Meredith, he hoped the affair would immediately subside.

The *Speaker* then interrupted him, and said, "What I said, arose out of what I understood the member to have said. If he disclaimed candor with the Chair, I had a right to say, I was not to expect candor on that subject. I did not, in justice I ought not to have made a general reflection upon the member's character; but, if the member had said what I understood he said, I had a right to say what I did. I can make no apology for what I said; but will abide the sense of the House."

This again inflamed matters.

Mr. *Grenville* then continued, that he was sorry to find himself mistaken, as to what the Speaker had said; that by saying he meant no general reflection, it was clear that he meant particular ones on sir W. Meredith; and as no gentleman in the House was ever allowed to use disrespectful words to another, without apology, he thought the House had a right to expect the same behaviour from the Chair, which ought to be a pattern to the House, of order and gentlemanly deportment.

The House was now inflamed to a high degree. The ministry still contending for the innocence and propriety of the words, whilst the minority attacked the Speaker in a manner that few persons could bear.

Mr. *Dowdeswell* observed, that the words were disorderly in the highest degree; if they had fallen in common debate, from one member to another, they must be looked on as such; but that the weight they carried with them, as coming from the Chair, would also be looked on as a censure on the member, and tending to destroy the freedom of debate; for if censures of that nature were permitted to fall so lightly from the Chair, we might at some future period of time have a Speaker who might be the tool of administration, and particular members might, in a great degree, be censured so as to be silenced, destroying, by that means, the freedom of debate.

Sir *Gilbert Elliot* observed, that the debate had now continued four hours; no question had yet been moved on the matter; he therefore imagined the gentlemen of the minority had nothing to move, and thought the House might as well adjourn.

Mr. *Dowdeswell* then said, he had a motion in his hand, which he had had ready above two hours, but had hoped the Speaker would make it unnecessary, by making the proper apology; but as he found that not to be the case, he moved, "That the Words spoken by Mr. Speaker, from the Chair, are disorderly, importing

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have submitted the regularity of my conduct, in this particular, to the House, and received their explanation of the rule, Whether the Clerk is justified in obeying any other orders or directions but what are signified to him by the Speaker?" Hatsell.

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an improper reflection on a member of this House, and dangerous to the freedom of debate in this House."

Colonel Barré seconded the motion in a strong, nervous speech, in which he expatiated on the disorder such expressions were likely to introduce; gave many hints of a Speaker who was not Speaker of the whole House, but only of one side of it: some more violent declamations were made; but the Speaker finding himself supported by the ministry, declared his determination to abide by the censure or acquittal of the House.

About nine o'clock, the debate growing tedious, and every severe thing having been said which the matter would allow of, some members began to hint at expedients, how to erase this disagreeable transaction from the Journals, that it might not appear to the world that a Speaker had so expressed himself; as an acquittal would be as dangerous to future parliaments, as a censure would be to lessen the dignity of this. Some moved to adjourn; but that appeared improper, as the transaction would be on the Journals, and the adjournment seemed a poor subterfuge to rescue the Speaker from censure: others wished the motion for taking down the words, which was made by Mr. Cornwall, might be withdrawn; but this could not be without leave of the whole House. Mr. Cornwall, himself, desired it much; but one or other always prevented it. Sir W. Meredith behaved from the first exceeding well: he first shewed a proper spirit at the being so insulted; and when he saw the House desired a reconciliation might take place, did not oppose himself to it, but promoted it a good deal. At last lord North said, the only way was, to put the question as proposed by Mr. Dowdeswell, which was done, and carried in the negative. The debate lasting from four to near ten.

Feb. 19. The House having resumed the adjourned consideration of the Report from the Committee on the State of the Nation, sir W. Meredith moved, "That it is the rule of this House, that a complicated question which prevents any member from giving his free assent or dissent to any part thereof, ought, if required, to be divided." *

On this the Minority observed, that the freedom of debate absolutely required such a decision, as without it no person could, agreeably to his conscience, give a vote therein, unless he assented or dissented to both parts of it; that the common rule of nature demanded it, as in common conversation, if you ask my assent to such a question, I shall undoubtedly desire you to divide it, or else I shall answer to each separately; that even in courts of justice, in the case of a man accused of felony and burglary, the jury acquit him of one and find him guilty of the other: that this practice would not be liable to any inconvenience; as if the majority of the House determined that any question was not complete, they would not allow it to be divided, even under this rule; that it would give great ease to the freedom of debate, and destroy the absurdity which was manifest even from the present matter before the House. They did not produce any authorities, as it never had been reduced to a written rule; nor could they shew from the Journals that this had been the practice.

The Ministry therefore argued, that as this question was a question of fact, and as no authority had been shewn that it was either a written rule or practice, they certainly would not assent to the proposition as it stood on the paper: that there were, on the contrary, innumerable instances on the Journals of complex questions, some of which, on a motion, the House had agreed to divide; that it certainly would be an infamous practice to tack an improper proposition to a very proper one, to force the former down by

* "When a question is complicated, that is, consists of two or more propositions, it has been often said, that it is the right of any member to have it divided, in order that he may give his opinion upon each proposition separately. This was a very favourite topic with Mr. George Grenville, and often repeated by him, and at last insisted on so much, in the question about the Middlesex election, on the 16th of Feb. 1770, that it was thought necessary to take the sense of the House upon it; which was done by a question, and carried in the negative, on the 19th of February: so that this matter is now at rest. Upon this occasion, every thing was urged that could be said in favour of the doctrine, as laid down by Mr. Grenville; but the truth is, there does not appear the least trace, in the history of the proceedings of either House of Parliament, of this ever having been the practice; indeed, it would introduce universal confusion; for who is to decide, whether a question is complicated or not?—'where' it is complicated—into how many propositions it may be divided?" Hatsell.

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weight of the latter, but that the daily custom of the House shewed the method of getting rid of that inconveniency, by a motion to leave out the exceptionable part, which would give any person an opportunity to vote against it; that it was difficult to do any business in the House in which some part of it was not exceptionable; an act of parliament, for instance, and many other of the daily businesses of the House; that to give any member a power to divide a question would be creating numberless difficulties in every business that could come before the House.

On the division against the question 243
For the question - - - - - - 174

Lord *North* then said, he had no objection to dividing the question now before the House, and therefore on this motion the question was first put and carried unanimously.

Then the question being put, the House divided: Yeas, 174; Noes 243. So it passed in the negative.

Ordered, That the said Resolution be divided into two parts, the first part ending at the word "thereof," and the question, for agreeing with the committee therein, be put upon each part separately.

And the question being accordingly put, to agree with the Committee in the first part of the said Resolution, "That this House, in the exercise of its judicature in matters of election, is bound to judge according to the law of the land, and the known and established law and custom of parliament, which is part thereof;" It was resolved in the affirmative.

Then a motion was made, and the question being put, to agree with the Committee in the second part of the said Resolution, "That the judgment of this House declared, in the Resolution of the 17th of February last, 'That John Wilkes, esq. 'having been in this session of parliament 'expelled this House, was, and is, incapable of being elected a member to serve 'in this present parliament,' was agreeable to the said law of the land, and fully authorized by the law and custom of parliament." The House divided: Yeas 237; Noes 159. So it was resolved in the affirmative.

Debate in the Lords on a Motion, "That in Matters of Election the House "of Commons is bound to judge according "to the Law of the Land, &c."] February 2. The House of Lords being put into a Committee, for taking into consideration the State of the Nation,

The Marquis of *Rockingham* moved to resolve, "That the House of Commons, in the exercise of its Judicature in Matters of Election, is bound to judge according to the Law of the Land, and the known and established Law and Custom of Parliament, which is part thereof."

The Earl of *Sandwich* opposed the motion. How the matter before us, he said, ever came to be a question in debate, or how it could be supposed that this House should, or could take cognizance of an affair that does not in any respect apply to them (the expulsion and incapacitation of members being acts only relative to the Commons, to which they immediately belong), is to me an object of as much surprise, as any I ever met with in the course of my being a member of this House.

Though the impropriety of this proceeding might be very easily exposed in theory, by proving particular inherent rights in either House, uncontroulable by any other power, I shall avoid launching into so wide a field, and confine myself to the state of our Journals, where we shall find many instances to prove the independent power either House has in the article of expulsion and incapacitation; two fall immediately under my memory, which, as they are directly similar, I shall beg leave to remind your lordships of.

The first was Lionel earl of Middlesex,* in the reign of James 1st, who, for certain crimes and misdemeanors, was considered, not only as an improper person to officiate for the present, but for ever precluded and incapacitated to serve in this House. The other was that of lord Bacon,† who, though a man of acknowledged great capacity, yet, on account of bribery and corruption being proved against him, shared the fate of the earl of Middlesex. Indeed this last instance is so very notorious, that I should not mention it to your lordships, but that it applies so directly to my present purpose.

In both these cases, we find no alarm from any of the other branches of legislation; they stood quite silent and undisturbed, knowing their interference was improper as well as unnecessary; nor was there so much as a supposition, that either the laws of this House, or those of the land, had

* See vol. 1, p. 1477. † Ibid. p. 1239.

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been, in the least, violated, or broken in upon.

I should be glad to know, my lords, how came this doctrine of late to be broached? Who should be most naturally tenacious of their own liberties and privileges, but the members of that House themselves? Yet, great as the paradox is, we find numbers of those very members, both in the House and out of it, using every effort to divest themselves of this privilege. How, then, are we to explain such unaccountable conduct? but that the spirit of party has gone abroad, and has been successful in its wiles and seduction. If any encroachment, indeed, had been made on the other branches of legislation, either in this House or the royal prerogative, then it would, indispensably, behove us to interfere for the benefit of the whole; but as neither of these have happened, as the affair is only a point that respects the honour of their own House, let us leave it to themselves to determine it as they like.

But it is urged by the noble marquis who opened the debate, that an alarm is gone forth among the people; that their minds are disquieted; that the laws of the land have been trampled on; that the grievances they have petitioned for are left unredressed; and to close this dreadful catalogue of evils, the member which they have repeatedly returned, has been as repeatedly rejected, and finally incapacitated. Though I have the highest opinion of the noble marquis's veracity in other respects, I must beg leave to think he is very much mistaken in the former part of his assertions. I have been at some pains (from the bustle this alarm first created) to examine, with as much degree of accuracy and impartiality as I was capable, into its real situation, and I have found it, on the strictest search, to be nothing more than a faction, first set on foot by the daring and ambitious, and occasionally supported by the desperate, necessitous, and ignorant. But let us take the fact as represented. We are told that the majority of the people of England have petitioned for a redress of grievances. Now, the whole of the people of England are contained within forty counties; thirteen only of which have petitioned. This, my lords, on the first view, requires no deep calculation, no abstract knowledge of numbers to tell that thirteen is not quite one third of forty, though it is roundly asserted, that the whole of the people of England have petitioned. If we will further suppose (which we may very impartially do) that a number of those who have signed the petitions possess no manner of freehold, but are led thither either by the general pressures of poverty, the want of an immediate meal, or the future hopes of some better establishment; if we will, likewise, consider what a number have been intimidated into it (I say intimidated, my lords; for if we look into the Gazette, we shall there find menacing letters, frequently directed to those who had firmness of mind, and good sense sufficient to be guided by their own opinions in these matters); we shall, even in these thirteen counties, find the number so lessened, as not to make up really a twentieth part of his Majesty's subjects. And shall the supplications, then, of so small a number be considered as the general voice of the people? Are privileges to be broke in upon, and arbitrary dictums to be complied with, because a few factious, discontented people would have it so?

I remember, my lords, some years ago, when I was a member of the other House, there was a remonstrance from two aldermen of the town I represented, complaining (in the name of the whole) of some corporation fraudulences. When the House began to consider that the corporation consisted of a great many members, and that but two, out of so many, had complained, they set the remonstrance aside, as nugatory and frivolous; judging, very properly, if any real grievance had existed, it would have been better supported.

Let us then, my lords, be superior to these false alarms; the feeble echoes of despondence and ambition. Let us act like the real guardians of the nation, steady in supporting the privileges of the people, but not too forward to appear when no real danger presses. If the House of Commons think themselves insulted, by having a member forced upon them, whose private or public qualities are obnoxious to them, let them determine it among themselves; it would ill become us to widen the breach, by creating a rupture between two branches of the legislature, on whose unanimity and concord every thing depends that is conducive to the real interests of the people, or the honour of the crown.

The Earl of *Chatham* began with observing, that the noble lord had been very adroit in referring to the Journals, and in collecting every circumstance that might assist his argument. Though, said he, my

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long and almost continued infirmities have denied me the hour of ease to obtain these benefits, yet, without the assistance of the Journals, or other collaterals, I can reply to both the precedents which his lordship has produced.

I will readily allow the facts to be as the noble earl has stated them, namely, That Lionel, earl of Middlesex, as well as lord Bacon, were both, for certain crimes and misdemeanors, expelled this House, and incapacitated from ever sitting here; without occasioning any interference from the other branches of the legislature.

Neither of these cases bear any analogy to the present case. They affected only themselves. The rights of no constituent body were affected by them. It is not the person of Mr. Wilkes that is complained of. As an individual he is personally out of the dispute. The cause of complaint, the great cause, is, the inherent rights and franchises of the people are, in his case, invaded, trampled upon, and annihilated. Lord Bacon and lord Middlesex represented no county, or city. The rights of no freeholder, the franchises of no elector, were destroyed by their expulsion. The cases are as widely different as north from south. But I will allow the noble earl a succedaneum to his argument, which, probably, he has not, as yet, thought of. I will suppose he argues, "that whatever authority gives a seat to a peer, it is, at least, equally as respectable as to a commoner, and that, both in expulsion and incapacitation, the injury is directly the same."—Granted; and I will further allow, that if Mr. Wilkes had not been re-elected by the people, the first expulsion, I believe, would be efficient. Therefore, my lords, this comparison ceases; for, except these noble lords mentioned had received a fresh title, either by birth or patent, they could not possibly have any claim after the first expulsion. The noble lord asks, "How came this doctrine to be broached?" And adds, "Who should be more tenacious of their liberties and privileges than the members themselves?" In respect to the latter part of this question, I agree none should be so proper as themselves to protect their own rights and privileges; and I sincerely lament that they have, by their recent conduct, so far forgot what those privileges are, that they have added to the long list of venality from Esau to the present day. In regard to the first part, "How came this doctrine to be broached?" I must tell the noble lord it is as old as the constitution itself; the liberties of the people in the original distribution of government, being the first thing provided for; and in the case of Mr. Wilkes, though we have not instances as numerous as in other cases, yet it is by no means the less constitutional; like a comet in the firmament, which, however it may dazzle and surprise the vulgar and untutored, by the unfrequency of its appearance, the philosopher, versed in astronomic science, it affects no more than any other common process of nature, being perfectly simple, and to him perfectly intelligible. Need I remind you, my lords, at this period, of that common school-boy position, "that the constitution of this country depends upon King, Lords, and Commons, and that each by their power are a balance to the other." If this is not the case, why were the three estates constituted? Why should it be necessary before an act of parliament takes place, that their mutual concurrence should be had. My lords, I am ashamed to trudge in this common track of argument; and have no apology to make, but that I have been drawn into it by the noble lord's asserting, "We had no right to interfere with the privileges of the other House."

The noble earl has been very exact in his calculation of the proportion of persons who have petitioned; and did the affair rest, merely, on this calculation, his argument would be unanswerable; but will he consider what numbers, whose private sentiments felt all the rigour of parliamentary proceedings, but for want of a few principals to call them together, and collect their opinions, have never reached the ear of their sovereign. If we add to this number, the interest made use of on the side of government, to suppress all petitions, with the authority that placemen have necessarily over their dependents, it is very surprising, that out of forty counties, thirteen had spirit and independence sufficient to stem such a tide of venality. But I will suppose that this was not the case, that no undue influence was made use of, and that hence but one third of the people think themselves aggrieved. Are numbers to constitute right? Are not the laws of the land fixed and unalterable? And is not this proceeding complained of, or any other (supported even but by one), to be tried, and adjudged by these laws? Therefore, however the noble lord may excel in the doctrine of calculation as

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a speculative matter, it can by no means serve him, urged in the course of argument.

Let us not then, my lords, be deaf to the alarms of the people, when these alarms are founded on the infringement of their rights. Let us not sit neuter and inattentive to the proceedings of the other House. We are, equally with that House, entrusted with the people's rights, and we cannot conscientiously discharge our duties, without our interference, whenever we find those rights, in any part of the constitution, trampled upon.

I have, my lords, trespassed on your patience, at this late hour of the night, when the length of this debate must have fatigued your lordships considerably. But I cannot apologize in a case so deeply interesting to the nation—no time can be too long—no time can be lost—no hardships can be complained of.

He condemned the conduct of the House of Commons in terms of asperity. He denominated the vote of that House, which had made colonel Luttrell representative for Middlesex, a gross invasion of the rights of election—a dangerous violation of the English constitution—a treacherous surrender of the invaluable privilege of a freehold, and a corrupt sacrifice of their own honour. They had stript the statute book of its brightest ornaments, to gild the wings, not of prerogative, but of unprincipled faction and lawless domination. To gratify the resentments of some individuals, the laws had been despised, trampled upon, and destroyed—those laws which had been made by the stern virtue of their ancestors, the iron barons of old, to whom we were indebted for all the blessings of our present constitution; to whose virtue and whose blood, to whose spirit in the hour of contest, and to whose tenderness in the triumph of victory, the silken barons of this day owe their honours and their seats, and both Houses of Parliament owe their continuance. These measures, he said, made a part of that unhappy system, which had been formed in the present reign with a view to new model the constitution, as well as the government. These measures originated, he would not say, with his Majesty's knowledge, but in his Majesty's councils. The Commons had slavishly obeyed the commands of his Majesty's servants, and had thereby exhibited and proved to the conviction of every man, what might have been only matter of suspicion before—that ministers held a corrupt influence in parliament—it was demonstrable—it was indisputable. It was, therefore, particularly necessary for their lordships, at this critical and alarming period, so full of jealousy and apprehension, to step forward, and oppose themselves, on the one hand, to the justly incensed, and perhaps speedy, intemperate rage of the people: and on the other, to the criminal and malignant conduct of his Majesty's ministers; that they might prevent licentiousness on the one side, and depredation on the other. Their lordships were the constitutional barrier between the extremes of liberty and prerogative.

The question being put, was decided in the negative by 96 against 47.

List of the Minority.

DUKES	Tankerville.
Richmond	VISCOUNT.
Manchester	Torrington.
Devonshire	BISHOPS
Northumberland	John Bangor
Bolton	Fred. Exon.
Portland.	BARONS
MARQUIS	Littelton
Rockingham.	Grosvenor
EARLS	Abergavenny
Thanet	Audley
Aylesford	Wycombe
Suffolk & Berkshire	Camden
Huntingdon	Chedworth.
Chatham	Craven
Coventry	Archer
Radnor	Romney
Scarborough	Trevor
Stamford	Sondes
Temple	Boyle
Dartmouth	King
Berkeley	Fortescue
Effingham	Monson
Buckinghamshire	Ponsonby
Fitzwilliam	Milton
Albemarle	Hyde.
Abingdon	

Protest against rejecting the said Resolution.] Upon which the following Protest was entered:

"Dissentient,

"1. Because the Resolution proposed was, in our judgment, highly necessary to lay the foundation of a proceeding which might tend to quiet the minds of the people, by doing them justice, at a time when the decision of the other House, which appears to us inconsistent with the principles of the constitution, and irreconcilable to the law of the land, has spread so universal an alarm, and produced so general a discontent, throughout the kingdom.

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"2. Because, although we do not deny that the determination on the right to a seat in the House of Commons is competent to the jurisdiction of that House alone, yet when to this it is added, that whatever they, in the exercise of that jurisdiction, think fit to declare to be law, is therefore to be so considered, because there lies no appeal, we conceive ourselves called upon to give that proposition the strongest negative; for, if admitted, the law of the land (by which all courts of judicature, without exception, are equally bound to proceed) is at once overturned and resolved into the will and pleasure of a majority of one House of Parliament, who, in assuming it, assume a power to over-rule at pleasure the fundamental right of election, which the constitution has placed in other hands, those of their constituents; and if ever this pretended power should come to be exercised to the full extent of the principle, that House will be no longer a representative of the people, but a separate body, altogether independent of them, self-existing and self-elected.

"3. Because, when we are told that expulsion implies incapacity; and the proof insisted upon is, that the people have acquiesced in the principle, by not re-electing persons who have been expelled; we equally deny the position as false, and reject the proof offered, as in no way supporting the position to which it is applied; we are sure the doctrine is not to be found in any statute or law-book, nor in the Journals of the House of Commons, neither is it consonant with any just or known analogy of law; and as not re-electing would, at most, but infer a supposition of the electors approbation of the grounds of the expulsion, and by no means their acquiescence in the conclusion of an implied incapacity; so, were there not one instance of a re-election after expulsion but Mr. Woolaston's, that alone demonstrates, that neither did the constituents admit, nor the House of Commons maintain, incapacity to be the consequence of expulsion; even the case of Mr. Walpole shews, by the first re-election, the sense of the people, that expulsion did not infer incapacity; and that precedent too, (which is the only one of an incapacity), produced as it was under the influence of party violence in the latter days of queen Anne, in so far as it relates to the introduction of a candidate having a minority of votes, decides expressly against the proceedings of the House of Commons, in the late Middlesex election.

"4. Because, as the constitution hath been once already destroyed by the assumption and exercise of the very power which is now claimed, the day may come again when freedom of speech may be criminal in that House, and every member who shall have virtue enough to withstand the usurpations of the time, and assert the rights of the people, will for that offence be expelled, by a factious and corrupt majority, and by that expulsion rendered incapable of serving the public; in which case the electors will find themselves reduced to the miserable alternative of giving up altogether their right of election, or of choosing only such as are enemies of their country, and will be passive at least, if not active, in subverting the constitution.

"5. Because, although it has been objected in the debate, that it is unusual and irregular in either House of Parliament to examine into the judicial proceedings of the other, whose decisions, as they cannot be drawn into question by appeal, are, it is said, to be submitted to without examination of the principles of them elsewhere; we conceive the argument goes directly to establish the exploded doctrine of passive obedience and non-resistance, which, as applied to the acts of any branch of the supreme power, we hold to be equally dangerous: and though it is generally true, that neither House ought lightly and wantonly to interpose, even an opinion, upon matters which the constitution hath entrusted to the jurisdiction of the other, we conceive it to be no less true, that where, under colour of a judicial proceeding, either House arrogates to itself the powers of the whole legislature, and makes the law which it professes to declare, the other not only may, but ought to assert its own right and those of the people: that this House has done so in former instances, particularly in the famous Case of Ashby and White, in which the first Resolution of the Lords declares, 'That neither House of Parliament hath any power, by any vote or declaration, to create to themselves any new privilege that is not warranted by the known laws and custom of parliament;' we ought to interfere at this time, the rather as our silence on so important and alarming an occasion, might be interpreted into an approbation of the measure, and be a means of losing that confidence with the people, which it is so essential to the public welfare that this House, the hereditary guardians of their rights, should at all times endeavour to maintain.

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"6. Because, upon the whole, we deem the power which the House of Commons have assumed to themselves, of creating an incapacity unknown to the law, and thereby depriving, in effect, all the electors of Great Britain of their invaluable right of free election, confirmed to them by so many solemn statutes, a flagrant usurpation, as highly repugnant to every essential principle of the constitution as the claim of ship money by king Charles 1, or that of the suspending and dispensing power by king James 2, this being indeed, in our opinion, a suspending and dispensing power assumed and exercised by the House of Commons against the antient and fundamental liberties of the kingdom.

——*(Signed)* Temple, Audley, Craven, Camden, Portland, Richmond, Radnor, Thanet, Lyttelton, Coventry, Stamford, John Bangor, Fred. Exon, Torrington, Tankerville, Effingham, Archer, Fortescue, Bolton, Wycombe, King, Manchester, Chedworth, Ponsonby, Chatham, Hyde, Monson, Albemarle, Scarborough, Suffolk and Berkshire, Aylesford, Fitzwilliam, Trevor, Rockingham, Berkeley, Huntingdon, Abergavenny, Boyle, Buckinghamshire, Milton, Northumberland, Grosvenor."

Resolution against the Lords interfering with a Judgment of the Commons in a matter where their Jurisdiction is competent.] The question being now got rid of, and notwithstanding it was past twelve o'clock, the earl of Marchmont made the following motion: "That any Resolution of this House, directly or indirectly, impeaching a Judgment of the House of Commons, in a matter where their Jurisdiction is competent, final, and conclusive, would be a violation of the Constitutional Rights of the Commons, tends to make a breach between the two Houses of Parliament, and leads to general confusion."

It should seem that the Scotch kept this motion in their pockets; and that they reserved themselves for it; as neither the earl of Marchmont, who made it, nor lord Mansfield, who supported it, opened their mouths till now; when they both spoke with great vigour. The earl of Marchmont threw out, by way of menace to the Opposition, that if they went but one step further, they would justify the necessity of calling in foreign assistance. The duke of Richmond called him to order, and asked for an explanation of the words "foreign assistance." But he shuffled it off. Lord Mansfield, in a long speech, insisted that their lordships had no right to interfere in any determination of the Commons. The earl of Egmont said the late petitions were highly censurable, that the people had no right to present such petitions, for that they were treasonable.

The Earl of *Chatham* thanked him for his lenity in permitting the petitioners to have their heads on one day longer: and said the petitions were laudable and constitutional; and the right of the people, to present them, undoubted. He then replied to lord Mansfield, and shewed the justice and necessity of the House of Lords interfering in cases of an invasion of the people's liberties, or an unconstitutional determination of the House of Commons; and he affirmed, that the case of the county of Middlesex fell under both these denominations. Then he conjured them, by the noble blood which had run for so many ages in their veins, and by the noble struggles of their ancestors in behalf of liberty, not to behold with indifference a transaction so alarming; and modestly said of himself, for his own part, he was hardly warm in his seat. He quoted lord Somers and chief justice Holt, in support of his law; and drew their characters very finely. He called them honest men, who knew and loved the constitution. Then turning to lord Mansfield, he said, I vow to God I think the noble lord equals them both—in abilities. Towards the conclusion he complained strongly of the motion's being sudden, and made at midnight, and pressed the necessity of an adjournment of only two days. He said, among other things, if the constitution must be wounded, let it not receive its mortal stab at this dark and midnight hour.

The Earl of *Sandwich* took occasion to charge lord Camden (the late Chancellor) with duplicity of conduct, because he permitted those proceedings which had given so much disgust, and was the cause of the present disturbances, without remonstrating to the King against them; and had refused to give his opinion thereon.

Lord *Camden* answered him, by declaring upon his honour, that long before Mr. Wilkes's expulsion, and also before the vote of incapacity, on being asked his opinion, by the duke of Grafton, he informed his grace, that he thought it both illegal and imprudent; that he had ever been of that opinion, and that he had fre-

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quently delivered his opinion to that effect.

The Duke of *Grafton* replied, that it was true his lordship had once before the expulsion signified, but not in express terms, that he thought the expulsion impolitical or ill-timed; but that he never had given his opinion on the vote of incapacity; on the contrary, that whenever that subject was agitated in council, his lordship was silent thereupon, or withdrew himself from the council-board; and by that means had refused or declined ever giving any opinion relative thereto.

The Duke of Grafton was supported in this assertion by lord Weymouth, who declared from his knowledge of the facts, that what his grace alledged was true, and then pointed out the particular time when lord Camden withdrew his advice and assistance from the council, on the very mention of the subject of expulsion and incapacity.

Lord *Camden* then with great candour admitted that, after he had repeatedly given his opinion on the inexpediency of the measures in question, when he found both his advice and opinions rejected and despised; and that the noble persons, who had the immediate direction of them, were determined to carry them into execution against every remonstrance he should make; he did always withdraw himself from the council whenever those subjects were agitated, and that he had declined giving any farther opinion or advice relative thereto. But his lordship declared, that his reasons for so withdrawing himself proceeded from a conviction that his presence would only impede and distract measures which were determined upon, and which his single voice could not prevent; that his further opinion had never been directly or indirectly asked, because the conductors were convinced he would have advised against it; but that he was ever ready, as his Majesty's servant, to have given both his advice and opinion, had either been asked.

The Earl of *Chatham* then vindicated lord Camden, by assuring their lordships, that, to his particular knowledge, the noble lord was against that measure; for, in several conversations with him, he declared his opinion, and supported it by reasons, shewing its impropriety and unconstitutionality.

The House then called out, "The question!" And it being half an hour past one in the morning, the question was put, and carried in the affirmative.

Protest against the said Resolution.] Upon which the following Protest was entered:

"Dissentient'

"1. Because that we apprehend that the rights and powers of the peerage are not given for our own particular advantage, but merely as a constitutional trust, to be held and exercised for the benefit of the people, and for the preservation of their laws and liberties; and we should hold ourselves betrayers of that trust, unworthy of our high rank in the kingdom, and of our seats in this House, if we considered any one legal right of the subject, much less the first and most important of all their rights, as a matter indifferent and foreign to the peers of this kingdom.

"2. Because by this Resolution it is declared to the world, that if the House of Commons should change the whole law of election, should transfer the rights of the freeholders to copyholders and leaseholders for years, or totally extinguish rights by an arbitrary declaration; should alter the constitution of cities and boroughs with regard to their elections; should reverse not only all the franchises of suffrage which the people hold under the common law, but also trample upon the sanctions of so many acts of parliament made for declaring and securing the rights of election; that even in such a critical emergency of the constitution, the people are to despair of any relief whatsoever from any mode, or direct or indirect interference of this House.

"3. Because by this Resolution the House not only refuses to stand by the people, in case they should suffer the most grievous injuries from their representatives, but it abdicates its ancient and unquestioned province and duty of the hereditary council to the crown, rendering itself unable to give its advice in a point in which, of all others, the King may stand in the greatest need of the wisdom and authority of the Peers, a point such as the present, in which numbers of the constituents have, in a manner agreeable to law, carried up their complaints to the throne against their representatives.

"4. Because by the said Resolution we do a most material injury to the House of Commons itself; the Resolution, by the studied latitude of the words "directly or indirectly to impeach," puts it out of the power of the Lords to offer, either in the present or in any future unfortunate difference between them and their constitu-

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ents, even in the way of friendly conference, our amicable and healing mediation; the want of which may be a means of letting such difference run to extremities, fatal to the House of Commons itself, to the constitution, and to the nation.

" 5. Because we consider ourselves also, as an House of Parliament, to be most materially interested that the people should be legally and constitutionally represented; for as the House of Commons makes an essential part of parliament, if that House should come to be chosen in a manner not agreeable to the laws and constitution of the kingdom, the authority of parliament itself must suffer extremely, if not totally perish; the Peers can no more in their legislative capacity, do any valid act, without a " legal House of Commons," than without a " legal prince upon the throne."

" 6. Because, by this Resolution, the constitutional controul has been given up, which this House, as appears by ancient and recent precedents, have constantly claimed and exercised, and for the purpose of which, the legislature has been divided into separate branches; we are far from denying such a reciprocity of controul in the other House, even in matters within our separate and final jurisdiction, neither arrogating to ourselves, nor acknowledging in others any power distinct from or above the laws of the land: but we cannot behold without the utmost shame and indignation, this House making a voluntary surrender of its most undoubted legal, necessary, and sacred rights, not only omitting, but refusing to examine precedents; not previously desiring a conference with the other House, to discover whether they were inclined to admit in this House a correspondent immunity from interposition on their part, in matters within the particular jurisdiction of the Peers. These proceedings are as derogatory from the dignity of the House, as they are contrary to its duty and its interests: they cannot fail of lowering this House in the opinion of mankind, who will not believe that the Peers can have any attention to the welfare of the people, when they have shewn so little regard to their own honour. This Resolution must tend to forward that plan, which with great uneasiness we have seen for a long time systematically carried on, for lowering all the constitutional powers of the kingdom, rendering the House of Commons odious, and the House of Peers contemptible.

" 7. Because the impropriety of this Resolution was infinitely aggravated, by the sudden and surreptitious method by which it was brought into, and carried through this House. That a resolution, new in matter, wide in extent, weighty in importance, involved in law and parliamentary precedents, should be moved at midnight, after the House was spent with the fatigue of a former debate; that an adjournment of only two days, to enable the Lords to consult the Journals on this important point, should be refused, and that an immediate division should be pressed, are circumstances which strongly mark the opinion of the movers upon the merits of their own proposition: such a proceeding appears to us altogether unparliamentary and unjust; and it must, in every instance where it is practised, preclude all possibility of debate, and when by this means all argument and fair discussion is suppressed, the deliberations of the House will degenerate into silent votes.

" We think ourselves, therefore, as peers, and as Englishmen and freemen (names as dear to us as any titles whatsoever,) obliged to protest against a resolution utterly subversive of the authority and dignity of this House, equally injurious to the collective body of the people, to their representatives, and to the crown, to which we owe our advice upon every public emergency; a resolution in law unconstitutional; in precedent, not only unauthorized, but contradicted: in tendency, ruinous; in the time and manner of obtaining it, unfair and surrpetitious. And we here solemnly declare and pledge ourselves to the public, that we will persevere in availing ourselves, as far as in us lies, of every right and every power with which the constitution hath armed us, for the good of the whole, in order to obtain full relief for the injured electors of Great Britain, and full security for the future against this most dangerous usurpation upon the rights of the people; which, by sapping the fundamental principles of this government, threatens its total dissolution.——

(Signed) Richmond, Portland, Radnor, Camden, Thanet, Lyttelton, Audley, Fred. Exon. Stamford, John Bangor, Effingham, Craven, Fortescue, Coventry, Torrington, Wycombe, Temple, King, Tankerville, Manchester, Chedworth, Ponsonby, Archer, Chatham, Hyde, Monson, Fitzwilliam, Albermarle,

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Scarborough, Huntingdon, Rockingham, Abergavenny, Boyle, Trevor, Milton, Northumberland, Aylesford, Berkeley, Bolton, Grosvenor."

Resolved, "That any Resolution of this House, directly or indirectly impeaching a Judgment of the House of Commons, in a matter where their jurisdiction is competent, final, and conclusive, would be a violation of the constitutional rights of the Commons, tends to make a breach between the two Houses of Parliament, and leads to general confusion."

Complaint against a Printer for publishing the above Protests.] Feb. 7. The two preceding Protests having been printed in the Middlesex Journal or Chronicle of Liberty, lord Gower complained of a breach of privilege, and moved that the printer should attend on the 10th. But he absconded.

Feb. 10. The Earl of *Sandwich* moved, That the printer, having been guilty of a contempt of that House, by not attending according to order, a farther order should issue to take him into the custody of the Usher of the Black Rod.

The Duke of *Richmond* then moved, that the standing order of the House should be read by which it is directed, That no person should be taken into custody for a breach of privilege, but upon charge on oath at the bar of this House; and that the peer who made the motion should pay all expences to the person so taken into custody, in case the charge is not made good against him. His grace at the same time observed, that numberless other breaches of privilege of the same sort (which he illustrated in the case of Mungo Campbell whose appeal from the Court of Justiciary was inserted in the public papers of last week, &c.) had been passed over in silence: and he thought that partial justice was injustice. He added, that motions of this kind, it was well known, always came from a particular quarter, and were confined to those things which tended to their own disgrace. It would also appear to the world, he said, that this prosecution was owing to their fears that their proceedings should become known.

Earl *Temple* addressed himself to those very consistent lords who complained of the publication of these Protests, which he thought ought to be echoed from every part of the British empire. He affectedly praised them for great conduct, in having always acted according to their situation. He observed that some drank so deep of the waters of Lethe, a river which runs near St. James's, that they had totally forgot their former conduct in the Protest on the American affairs and the East India Company; which protests, he had been informed, and believed, were published by some lords concerned in the present question; that he had been possessed of evidence to prove, that many pens were employed and paid by government, to asperse the private character of particular persons, as in the case of himself and his noble brother. He said he could remember the Briton and the Auditor, which produced the famous North Briton, which beat them with their own weapons; that ministers had always been deemed fair game, but the present hirelings had carried their attacks to private characters in the most scurrilous and infamous manner; that they had stooped low enough even to attack the person, the shape, the figure, but if a ridicule on his figure could give a dinner to a miserable crew of hireling scribblers, he could not be displeased—it did not hurt him; contempt and prudence made him silent to the provocation: let the stricken deer go weep—he was not wounded by it—he despised their invectives; whilst he stood well in the good opinion of the sober and honest part of the people, he was perfectly contented and happy. In short, he said, they acted like schoolboys, who begin the battle, and when they are beaten run away crying to the doctor to complain of ill treatment.

The order however passed, That the printer should be taken into the custody of the Usher of the Black Rod. But he thought proper to keep out of the way.

Proceedings in the Commons on the Bill to regulate the Consequences of the Expulsion of Members.] February 5. Mr. Herbert moved for leave to bring in a Bill to regulate the Consequences of the Expulsion of Members of this House. On being asked what ideas he proposed in this Bill, he said, he had not yet determined, but had two lines in his conception; the first, that incapacitation should not follow expulsion, except in particular cases, when judgment had been given in the courts below; the other line was, that incapacitation should follow expulsion for a given time only (as for a year): on which of those lines he should bring in his Bill he was not determined.

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There was no regular opposition to the bringing in a Bill; but it was objected, that a Bill to regulate the consequences of expulsion would imply that expulsion was legal, which there might be many reasons to doubt, it not being founded on law; that either of the lines would be liable to great inconvenience; as in the first, it would be difficult to ascertain what cases incapacitation would take effect in; that in the second, incapacitation for a year would have the same effect as for the whole parliament, as it would prevent a re-election, and subject the House to as great inconveniences from a ministry, as a general incapacitation would do, consequently would not, by any means, restore quiet to the country; that all declaratory laws weakened the common law; that our ancestors, in the case of Ship-money, would not bring in a Bill to regulate the prerogative in that point, but at once declared it illegal. However, the Bill was ordered to be brought in.

March 14. The Bill was read a second time. Lord North said, he should not oppose its being committed, but that in its present form he could not possibly consent to its passing.

April 6. The House went into a Committee on the Bill.

Mr. *Jenkinson* observed, that the first clause mentioned a catalogue of crimes for which incapacitation followed expulsion; that this catalogue (consisting of felony, blasphemy by statute, or any crime by statute for which the pillory was the punishment) was by no means extensive enough, as there were many crimes at common law, equally infamous with those mentioned, where the pillory or imprisonment was the punishment; that he should therefore move to leave out the crimes punishable by statute, and substitute an amendment, "or any person being sentenced to imprisonment for a year, or put in the pillory suffering corporal punishment," but this last he afterwards omitted, as burning in the hand for manslaughter, &c. might be included in it.

This amendment was opposed by the Opposition, as entirely changing the principle on which the Bill was brought in; the proposed design of it being to describe a set of crimes for which incapacitation should follow; this was done in the Bill as brought in, describing every particular crime as made so by act of parliament; but at common law there were many crimes where the punishment was arbitrary, as conspiracy, libels, breaches of the peace, trespasses, &c. that though the heinousness of some of them might make incapacitation necessary, yet if the Bill stood in that manner, it would be left in the power of a judge or bench of justices, before whom such crimes should be tried, to render such person incapable, by changing his sentence. General Burgoyne, for instance, was found guilty of a riot at Preston, the judge fined him 1,000*l.* he might have imprisoned him for a year, and yet no person would say the general was not a proper person to sit in the House; that there would be not only a discretion left by this means in the power of the judges and justices, but also in the House, as they might still choose whether to expel or not a person so convicted; this would leave it doubly in the power of a minister, first by his judges, next by majority in the House, to reject one candidate, or admit another; the offences at common law were so various, that no gentleman in the House could say he had not, at one time or other, been liable to such sentence; that the principles of the Bill being so converted from certainty to uncertainty, the very gentlemen who brought it in with so good a design as to quiet the disturbances raised by the decision of the House on the Middlesex election must give their own votes against it; that the Bill, if thus amended, instead of quieting the people, would give them a fresh handle to exclaim against the House of Commons, as it would then establish by law a most exorbitant power, which now was looked on by the people with a jealous eye.

The ministry endeavoured to shew that this alteration did by no means alter the principle of the Bill; that it only extended the catalogue of crimes further than the Bill did; that many crimes being admitted would render it very incomplete in the execution, and perhaps be attended with loss of power over its members to the House: that Mr. Wilkes (if this Bill had existed last year) would not have been incapacitated, though guilty of seditious and blasphemous libels.

It was answered, that it seemed as if the incapacitation of Mr. Wilkes was the great object the ministry always drove at. It was true, Mr. Wilkes would not have been incapacitated, nor could any person say that all seditious libellers should be so; that libels were of the greatest extent, and

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any person might fall under the lash of the law in that respect, with the best intention, to defend only the constitution; as for instance, sir Richard Steele, who was expelled for writing the Crisis, a pamphlet of infinite good consequence to the Hanoverian succession—would it have been right that he should have been incapacitated?

Lord *Barrington* approved of the amendment, yet thought, as a Bill of this kind would quiet the minds of the people out of doors, it should be passed in as unanimous a manner as possible; he wished therefore, as the minority seemed determined rather to lose the Bill than to submit to the alterations, that the ministry would give up the point, as the Bill would do very well as proposed; such a concession would shew the good sense of the ministry, who would thereby have the credit of yielding to the good of the nation, in a point which would not reflect any dishonour on them. This the ministry seemed not much to relish; but at last

Lord *North* got up, and argued at first for the amendment: he said, that this concession would not, he feared, conciliate the people, as there would always be men, whose interest or disposition would keep them unquiet, and render them still the blowers up of sedition; that nothing but punishment, or want of success, would have any effect on them. The former he was averse to; the latter he hoped would effectually do the business; however, he would no longer oppose the withdrawing the amendment.

This step seemed necessary, as he would else have most probably lost the question, as several of the ministry and country gentlemen of that party declared against it.

May 1. The House went again into a Committee on the Bill; in which lord North proposed an Amendment which gave great offence: and, in short, by a variety of alterations made by the ministry, the nature of the Bill had been almost wholly changed; which Mr. Herbert not approving of, he got up and moved, that the chairman might leave the chair; which being agreed to, an end was thus put to the Bill.

*Debate in the Commons on a Motion to disqualify Revenue Officers from Voting at Elections.**] February 12. The House having resolved itself into a Committee of the whole House on the State of the Nation,

Mr. *Dowdeswell* moved, that the Chairman might be directed to move the House, that a Bill might be brought in, "For disqualifying certain Officers in the Revenues from voting for Members of Parliament," and in support of it he spoke to the following effect:

In the reign of William the 3d, the excise produced a revenue of 100,000*l.* per ann. and it now produces 800,000*l.* The customs also now produce 600,000*l.* per ann. and the officers employed to collect this vast revenue, two millions sterling, are all in the power of the crown. The chief officers have, by act of parliament, been disqualified for sitting here, and I think, that for the same reasons we should disqualify the inferior officers from sending up any body to sit here. The obtaining of such an act, is an object that I would pursue at all times, whether in or out of office: I scorn to propose now I am out, what I would not support if I was in. The minister's great object is not so much the procuring the voice within doors, as without; he may shuffle on for a little while with a majority in his favour here; but if the majority of the people are against him, he can never obtain a permanent stability; he can never be respectable abroad, nor useful at home. The measure which I propose, therefore, instead of weakening him, would give the most effective strength; and a majority here, would be a vote and a pledge of a majority in the nation; if his measures were good they would meet with a most effectual support; and if bad, no friend to his country can wish that they should be supported at all. No minister, that professes to have the public good in view, can pretend, consistently with such profession, that any measure tending to produce a real representation of the people, can impede his designs; and therefore I shall meet with no opposition in this measure; or those who oppose it, must profess to adopt measures, which a free representation would not approve.

Mr. *Hippisley Coxe.* I am sorry that my ability to second and support this motion, is so very unequal to my will: I pretend to no merit but an honest and upright heart, which is sufficient to convince me, that something should be done to quiet the minds of the

* From the Gentleman's Magazine.

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people. The proceedings last year I believe both sides of the House regret; and I believe the crown influence on voters for parliamentary representatives so fatal, that if Charles the 1st had been able to govern boroughs, he would have been able to enslave the nation. I am for the disqualification of all the revenue officers who hold their places at will under the crown.

Sir *George Osborne.* The object of this committee, I think was grievances; where are these grievances? I should be glad to see them produced. Can any gentleman give a better account of them than is to be found in the London Petition, or than is likely to be found in the Remonstrance, which I am very sorry to hear, is preparing by the same hands.

Sir *John Molesworth.* The gentleman who made the motion ought to have the thanks of all who have burgage tenures; and if such a Bill as he has moved for should be passed, I may hope to see boroughs a less rotten part of the constitution, and more of my country neighbours in this House.

General *Boscawen.* I think our knight of the shire a few years since had a better opinion of our boroughs than he seems to have now: he now asperses them, but I well remember he then said, that he did not believe an adventurer could succeed for any one borough in Cornwall.

Mr. *Jenkinson.* The Bill which is the object of the present motion, is in my opinion wholly unnecessary. As the law now stands, no person in the custom, excise, or post-office, can intermeddle by persuasion or dissuasion, in the voting for representatives in parliament, under very heavy penalties. I wish those who are impeding government, by frivolous and factious contention, under colour of maintaining the freedom of parliaments, would be a little more cautious in the abetting of measures which strike at their very root. Petitioners to dissolve the parliament eventually make the privy council judges of the proceedings of this House; for the King dissolves with the advice of the privy council: this government knows no cabinet council; the privy council alone is constitutional; and there is not the least colour for the insinuation, that cabals are held in such a cabinet, so as unconstitutionally to influence public measures. Perhaps a few of his Majesty's friends might privately talk together about this, as about other affairs, but no public measure could take its rise from their determination.

Mr. *Thomas Townshend.* I heard a great person arraigned in another assembly for not attending the cabinet; it was said, "I took care that your lordships should be summoned, that you might have no excuse." Though I complain of public measures, I am desirous that the saddle should be put on the right horse. There is not a single object of government that has been properly attended to; there is not a single advantage which it should procure, that is not less; not a single mischief it should prevent, that is not greater. The smugglers on the coast of Sussex, are become pirates, and have perpetrated the most horrid murders. For these enormities the officers of the revenue are in some sort answerable; they could not have happened but from a neglect of duty; the delinquents would certainly have been turned out of the trust which they had abused and betrayed, if they had not been useful at elections. Persons have jumped into high offices without any pretensions from family, merely by the importance which they derived from this iniquitous service. And persons of tried abilities and worth have been dismissed for opposing it. The Lord Chancellor has been arraigned for washing his hands of the Middlesex election, a violent measure, which has been made the test of court favour; what constitutional existence or power a cabinet has, I shall not enquire; but nothing is more manifest, than that we are under the influence of a cabinet: we can judge of the tree only by its fruit, and I should imagine the cabinet to be a midnight assembly, consisting of persons, who repair, some from the hazard table, and some from the bottle, and whom for their credit, if credit they can have, we must suppose to be drunk.

Mr. *Jenkinson.* It would be affectation not to take a reflection just thrown out to myself, and meanness not to reply. The family from which I sprung, is as ancient and as good as that of the gentleman who spoke last, and I came into the situation which he seems to regard with envy and discontent, by industry, honestly applied, and I know no more honourable means of obtaining public employment.

Sir *Walter Blacket.* I would have every

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man carry his honour in his hand; his origin signifies nothing without it.

Mr. *Rigby*. Nothing is so disorderly here, as to take notice of what passes in another house; the cabinet is well known to consist of a committee, or a few members of the privy council called together for particular purposes; it is not pretended to have any constitutional authority, but it does not therefore follow, that it may not deliberate upon measures to be referred to the privy council that has. As to the Bill in question, I do not see that much can be said either for or against it. For my own part, I would oppose it, if the gentleman who moved it was minister, and then I suppose I should be in the ministry. But why is it called for in this committee of grievances? It has, I see, united gentlemen of very different principles; how it came to jumble them together, I cannot tell; but I cannot forbear taking the liberty to assure them, that they never will agree so well on the Treasury Bench, as they do on this side of the House. I could willingly have excused the gentlemen who made and abet this motion from doing it to day; if they had desired it, I would willingly have given them a day more to recover themselves from the fatigue of eating and drinking at my Lord Mayor's ball. [The Lord Mayor had given a ball two days before, which was supposed to have postponed the business that was to have come on that day.] Are not burgage tenures a rotten part of the constitution? I ask that gentleman who represents the rotten county.

Mr. *Beckford* (Lord Mayor). The gentleman who spoke last is a good humoured gentleman, and grows fat upon it. But he should not have made a woman's ball a party ball. I am ashamed of it. All sorts of people might have come to the dance. I wish he would turn his thoughts to objects of more moment: I wish he and his party would recollect that the Revolution was brought about by the removal of judges at pleasure, and that a great law officer (Mr. Dunning) has just now been removed for his vote in this House. As to a cabinet council, I hold it to be an unlawful assembly; the first that I remember was established in blood, in the time of Charles the 9th, of the House of Bourbon. As to the Bill in question, an interested man certainly is not competent in judicial proceedings, and for the same reason Custom-house officers ought to have no vote. Nor should great place-men sit and vote here.

Mr. *Charles Fox*. I am against this motion. Correct abuses and welcome, but do not correct one abuse, by causing many. Remedy the influence of the peers at elections; that is the fatal influence of the crown. As to the removal of the law officer, it was the saying of a great minister, that he who would not remove a man that was undermining administration, 'was a pitiful fellow.' A gentleman has talked about removing the judges, as an unconstitutional and arbitrary measure. But it is a pity he did not consider the difference between judges and a chancellor; the judges are in neither House, therefore they cannot influence nor undermine: a chancellor may do both: the chancellor may equitably and constitutionally be removed: the judges not.

Sir *Walter Blacket* said, that the taking away the franchises of such a number of people as was proposed, required farther consideration, and that they were not now ready for such a motion.

Mr. *Cornwall*. Whether we are now ready for such a motion, I know not, but this I know, that the measure proposed by it was never so necessary as it has been since the accession of his present Majesty. The executive power of the crown was never, during the same space of time, lodged in so many different hands, nor did it ever act by so visible an influence in this House: gentlemen have seen questions diametrically opposite to each other, carried by the same majority, and even the great law officer, who is now said to have been arraigned for washing his hands of the Middlesex election, was last year stated to be of the opinion with the majority of this House. It has been said that a noble duke was not to leave his station while he could keep it with honour; he has now left his station; why, then, are we not told the cause of his resignation? Surely it would be for his credit, and if not for the credit of other people, they ought not to be screened from their disgrace. The Lord Chancellor's present opinion was known so long ago as August last: if this was a justifying cause of removing him, why was he continued in office till a fortnight after the commencement of this session? If not, why was he removed at all? There would be no end of multiplying questions, to shew the irreso-

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lution and imbecility of those who are in power, or the futility of their endeavours to obtain a firmer establishment, by introducing and exalting new people, who have neither fortune, family, or experience; such people when they have done their dirty work, may pretend that they have honour; and when they have been rewarded with a great office, they may pretend that they were not ambitious.

Lord *North.* It is true, that the great law officer of the crown, was, last year, stated to be of the same opinion with the majority of this House, in the latter resolution which it came to; what was then stated was my sincere belief, but my belief was founded upon no other authority than a conversation which I had with him. It is also true, that he has since declared another opinion and been dismissed, but it cannot be said that he was dismissed for his vote in parliament; it would be unconstitutional, and the hon. gentleman who has imputed it to administration will not, I am sure, abide by his charge. But it is also alledged, that administration was imprudent in not dismissing him before; it should, however, be considered that a chancellor is not a judge only, but a ministerial officer of the crown. As to the reflections that have been thrown out with respect to the bringing young men into office, I shall come to the point at once. I acknowledge that I am a young man, and I will not pretend that my merit was adequate to my promotion; but I am not the youngest man that has held this office; and as to my merit, I was some years since removed, and the being removed from any department of administration seems to include all merit which some gentlemen are disposed to acknowledge. As to the present motion, it is to me a demonstration that the gentleman and his party are utterly in despair of effecting a change in administration. If they had had the least glimmering ray of hope that they should come in, they would upon this head have been as silent as the grave; for though this abandoned administration ought not to be trusted with a power over Custom-house officers, the upright heart of the gentleman who so ardently longs to be in my place, might be trusted, if he could succeed. Besides, the motion itself seems to me to be irregular; prior resolutions should be proposed to warrant such a proceeding, and shew its expediency in the nature of heads of a Bill in this committee, or the motion may extend to officers in the army and navy; and let me observe, too, that no evidence has yet been brought of the undue influence of the crown; an insinuation is one thing, a proof is another. The motives of opposition may be fairly inferred from the characters and situation of the opposers; country gentlemen always act consistently; they never enter into cabals, parties, or factions; they are not candidates for employments or honours: need I draw the inference?

Mr. *Grenville.* Let us pass over collateral considerations, and come directly to the principal objection against the motion. Will you say, that you cannot find officers for the customs and excise, if you deprive such officers of the franchise in question? Will you say, that it is unjust to separate the possession of a franchise from the possession of a place? or can it be pretended that a man who knowingly and voluntarily accepts a place from which a franchise is separated, has a right to complain of not being able to bring his franchise into place with him? The influence of the crown in the affair before us is unquestionable, and there can be no influence so dangerous. For myself, I am as little disposed to a race for popularity as for power, but it is most certain that no government can subsist in this country, that is not founded on the opinion of the people, obedience to the laws, and respect to the crown.

Lord *Frederick Campbell* said, that the motion seemed in its consequences to strike at the liberty of the subject, and that no man could tell where bills of disqualification might stop.

Lord *George Sackville* replied, that the Bill in view was on the contrary a Bill for the securing the liberty of the subject. It is, says he, suspending a franchise, but not taking it away; let him that prefers his franchise to his place quit his place, and his franchise will return. He concluded by observing, that there were many boroughs in which the officers in question all went one way, and to a man voted as they were directed by ministry; that in the reign of James I, officers were put into the management of the revenues in Cornwall, and that though it was now said to be different, yet the more the taxes, the more the officers of the revenue, and that even country gentlemen were now become dependants upon the crown.

Mr. *Buller*, jun. observed, that the

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greatest grievance was the loss of the confidence of that House with the people.

Mr. Onslow, col. Onslow, lord Strange, and sir Joseph Mawbey, spoke against the motion; sir George Saville, and lord John Cavendish for it.

Colonel *Barré.* The gentlemen on the other side have confessedly no ability, or they make no use of it. They use no arguments that can so much as give colour to the concurrence of those who are most devoted to their interest; how, then, can they expect even their vassals to follow them? This motion strikes deep at the King's Friends. It has been insinuated as a merit in a certain person, that he was displaced; and I am very ready to acknowledge that the administration for the last nine years past, has been a corps of deserters. There was, I remember, a corps in Germany during the last war, of exactly the same kind; it consisted wholly of deserters. The end of this corps may easily be guessed, and the end of this administration will be the same. Lord Godolphin would not suffer a Custom-house officer to reside where he was born; so that if such officer was wanted to vote in the south, it was necessary to send for him from the north, which was not so easily accomplished.

Lord Clare made a short speech in reply, and the question was carried in the negative, 263 against 188.

Lord Chatham's Speech on Secret Influence.] March 2. Lord Craven moved, "That an humble Address be presented to his Majesty, beseeching him forthwith to take the proper steps for such an Encrease of Seamen in the royal navy, as shall effectually preserve the honour and security of his Majesty's kingdoms and colonies, and protect the trade of his Majesty's subjects." Upon this occasion,

The Earl of *Chatham** condemned the conduct of his Majesty's servants, in almost every particular. He complained strongly of the secret influence of the earl of Bute, which he affirmed still continued, and which had prevented there having been any original minister since the accession of his present Majesty. [The duke of Grafton took this to himself, and said he did not know what the noble earl meant, by there having been no original minister; he could take upon him to say, that while he was in office he was as much minister as any man could be.] Lord Chatham scouted the idea of the noble duke's having been minister, and seemed to laugh at his presumption in having thought himself so. He said, he spoke of the secret influence of an invisible power—of a favorite, whose pernicious counsels had occasioned all the present unhappiness and disturbances in the nation, and who, notwithstanding he was abroad, was at this moment as potent as ever; that he had ruined every plan for the public good, and betrayed every man who had taken a responsible office; that there was no safety, no security against his power and malignity: that he himself had been duped, he confessed it with sorrow; that he had been duped when he least suspected treachery, at a time when the prospect was fair, and when the appearances of confidence were strong; in particular, at the time when he was taken ill, and obliged to go to Bath for a short week; he had, before he set out, formed, with great pains, attention, and deliberation, schemes highly interesting and of the utmost importance to this country; schemes which had been approved in council, and to which the King himself had given his consent. But when he returned, he found his plans were all vanished into thin air.

The House of Savoy, continued he, has produced a race of illustrious princes; notwithstanding which it must be confessed, that the court of Turin sold you to the court of France in the last peace.—When I was earnestly called upon for the public service, I came from Somersetshire with wings of zeal. I consented to preserve a peace which I abominated; a peace I would not make, but would preserve when made. I undertook to support a government by law; but to shield no man from public justice. These terms were accepted, I thought with sincerity accepted. I own I was credulous, I was duped, I was deceived; for I soon found that there was no original administration to be suffered in this country. The same secret invisible influence still prevailed, which had put an end to all the successive administrations as soon as they opposed or declined to act under it.

The Duke of *Grafton* rose again, and said: I rise to defend the King; though, if I understand rightly the words which have been spoken, they are only the effects of a distempered mind brooding over its own discontent.

* From the London Museum, for 1770.

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The Earl of *Chatham* replied: I rise neither to deny, to retract, nor to explain away the words I have spoken. As for his Majesty, I always found every thing gracious and amiable in the closet; so amiably condescending as to promise in every repeated audience not only to forgive, but to supply the defects of health by his cheerful support, and by the ready assistance of all his immediate dependents, &c. Instead of this, all the obstacles and difficulties which attended every great and public measure, did not arise from those out of government; but were suggested, nourished, and supported by that secret influence I have mentioned, and by the industry of those very dependents: first by secret treachery; then by official influence; afterwards in public councils. A long train of such practice has at length unwillingly convinced me, that there is something behind the throne greater than the King himself. As to the noble duke, there was in his conduct, from the time of my being taken ill, a gradual deviation from every thing that had been settled and solemnly agreed to by his grace, both as to measures and to men; till at last there were not left two planks together of the ship which had been originally launched. As to a distempered mind, I have a drawer full of proofs, that my principles have never given way to any disease; and that I have always had sufficient vigour of mind remaining to support them, and consequently to avoid all those snares, which, from time to time, have been so artfully laid to take advantage of my state of health; his grace can witness better than any other man, because he has himself the letters which sufficiently prove it.

The motion was negatived.

*Debate in the Commons on the State of the Civil List.** Feb. 28. Mr. *George Grenville* rose and said:

Sir; it is my present intention to trouble you on the subject of the Civil List, a revenue which if misapplied, so far from maintaining the dignity of the crown, serves only to besiege it with parasites, and instead of promoting industry or arts, serves only to subvert the freedom of the people.

Sir, there is by law a sum of 800,000*l.* annually made good by this House to the crown, for the end of supporting the regal character with dignity; which, together with the advantage of some additional revenues, is very adequate to every necessary, nay every liberal expence, the crown has occasion to incur; yet, notwithstanding the known greatness of the fund, and the known *economy* of the present times, the fund has been found insufficient, a considerable debt has been contracted on the credit of it, and the people have been applied to for more money, where all the thinking men in the kingdom were unanimously of opinion that they had already granted too much.

In 1764, Sir, the disbursements of the Civil List were 870,000*l.*, yet though since that period an annual sum exceeding 30,000*l.* has fallen in by the deaths of their royal highnesses the dukes of Cumberland and York, the expences of the crown, so far from being lessened, have experienced a regular increase, for in 1768 the expenditure amounted to 900,000*l.* and possibly when we come to review the expenditure of the last year, we may find it still more enormous. Whoever knows me, Sir, knows that while I would avoid prodigality, I scorn to be parsimonious, and far be a wish from my heart to bind majesty down to a stipend inadequate to its real greatness. But, Sir, in the late reign, when magnificence, surely, was as well understood, and possibly much better maintained, the crown always found the fund appropriated by the people for its support, sufficient to its utmost expences, and at that time necessary expences must have been much more considerable than at this hour; for the royal family was grown up, and demanded larger allowances; the journies to the continent were frequent, and perhaps sometimes expedient, but at all times expensive; yet the late king lived both within the limits of the Civil List, and left a sum of 170,000*l.* at his decease, which was wholly saved from that revenue, and which has been received by his present Majesty.

On these accounts, Sir, I am desirous of seeing the expences on the Civil List for the last year, that we may know how the public money has been laid out, since we are likely to be called upon for every occasional deficiency; if, Sir, it has been expended in the advancement of useful arts or the encouragement of liberal sciences; if it has been given to relieve the wants of the really necessitous, or applied to reward the merits of the truly deserving, I myself shall be

* From the London Magazine.

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the first to applaud the exalted extravagance; but if, on the contrary, it has been lavished upon the profligate, if it has been squandered upon a national parricide, to stab the unhappy country, whose generosity poured it into the royal exchequer; if, while resulting from the virtues, it has been employed to destroy the happiness of the people, it is our duty to remark with severity upon so scandalous a misapplication, and to prevent it, if possible, for the future. Therefore, Sir, as there can be no reason to fear our knowing how the Civil List has been made use of, if it has been properly used, I move, "That an humble Address be presented to his Majesty, that he will be graciously pleased to give directions, that there be laid before this House, an Account of all the Civil List Expences which were incurred, or became due, between 5th of January 1769, and 5th of January 1770, according to the establishment and other appointments then in use."

If the expenditure has been improperly, it is doubly our business to discover it, because the honour of the crown is not only concerned, but what is of much more importance, the prosperity of the kingdom.

Lord *North:*

Sir; it is exceedingly pleasant to find gentlemen, who have themselves benefited by the munificence of the crown, and who are themselves hourly pocketing the public money, making so strict an examination into the disbursements of the Civil List, and weeping so tenderly over the oppressions of their poor country. However, as I would at all times rather reason than rail, and as I am desirous of leaving the liberal field of invective wholly open to the enemies of administration, I shall proceed at once to the reasons which induce me to oppose the present question.

I readily grant, Sir, that whenever an application is made to this House for an extraordinary sum to wipe off occasional incumbrances on the Civil List, the House has a right to enquire how such incumbrances have been contracted, and it is but reasonable in a minister to declare in what manner the revenue appropriated to support the dignity of the crown has been exceeded, when he is desirous of having deficiencies supplied; but surely, till there is an application before us for supplying deficiencies, it is untimely, it is improper, it is unjust to enter into any examination of the royal expences. The right hon. member who has brought this enquiry before the House acknowledges that a particular sum of money is granted annually for the purposes of the Civil List, and does not even insinuate, that, while the crown confines itself within the stipulated sum, this House has the minutest pretence for scrutinizing the disbursements. How does the right hon. gentleman know, Sir, that the revenue under consideration has been in the least exceeded? how does he know that a shilling of it has been improperly applied? nay, how does he know that there is not a considerable saving in the expenditures of this year? his desire of an enquiry, indeed, implies a suspicion, but by no means demonstrates a fact; and the very argument which he urges in favour of his enquiry is infinitely stronger on the side of the crown, than in support of his own motion.

The right hon. gentleman tells you, Sir, that notwithstanding the liberal establishment given by the Civil List, the crown had run considerably in debt, as appeared by the application last year to make good the deficiencies, and that because we were last year called upon to give his Majesty an additional supply, there is sufficient reason to imagine that he stands at the present period in a proportional need of our assistance. For my own part, Sir, however popular it may be to arraign the principles, or doubt the independency of this House, I neither think the continual invectives which are thrown out against both, very consistent with politeness, or honesty. I think this House is at least entitled to the justice which is legally due to the meanest individual, and that we should at all events compliment it with the character of probity, till we have reason to doubt the propriety of this characteristic.

To reason, consequently, on this principle, I will not suppose that this House can be guilty of a perfidy to its constituents, or can wantonly lavish away those treasures to destroy, which are notoriously collected to promote, the happiness of the people. On the contrary, I will suppose that this House weighs, with great deliberation, the various dispositions of the public money, and never makes any grants which are not evidently proper, either for the interest, or the honour, of the nation. I am sure if we did not do this from choice, we have abundant cause to do it from necessity; for there is not a question of any importance ever carried

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among us, without an elaborate investigation; without a multitude of arguments forcible from fact, or perplexing from prejudice, and therefore the utmost circumspection is requisite in a minister, particularly when he asks for money, where such numbers are impatiently on the watch for an opportunity to traduce his character, to misrepresent his best designs, and hang him out to a credulous people as the betrayer of his country.

When a pecuniary question, therefore, has past the ordeal of this House, we may naturally conclude, that there is abundant cause for sanctifying it with an affirmative; we may naturally conclude, that there is abundant cause to imagine that the justice, the expediency of it must be evidently convincing; and it is surely a strange mode of reasoning to mention that as a criminal, or an erroneous measure within these walls, to the justice, the expediency of which we ourselves within these walls, have borne the most honourable testimony. An application, Sir, was made to us last year, for a supply in consequence of deficiencies on the Civil List; we thought the application just and expedient, or we should not have given it a favourable reception; looking upon it however to be both, we complied with the request it contained, and now the propriety of that procedure is to countenance the grossest impropriety, and we are to enquire into the private expences of his Majesty without any reason, merely because we granted him a supply, where we considered it to be absolutely necessary. That grant, Sir, if it prove any thing, proves that there is more occasion to trust the royal discretion than to doubt it. Had we refused the money last year, or given it reluctantly, there might be room to examine into the application of the arrear; but giving it cheerfully, nay gladly, we acknowledged ourselves convinced with regard to the rectitude of the expenditure, and have, of course, more foundation for an increased confidence in his Majesty, than for arraigning his œconomy. Upon the whole, Sir, as the Civil List is entirely the revenue of the crown, the crown has a right to dispose of it at will. If future applications are made for additional supplies, the expenditure may be examined with propriety. At present you give the King 800,000*l.* a year to spend as he pleases, and then ask him what he does with it; this is neither decent to him, nor sensible to yourselves. You would not even ask one of your officers what he does with the money you allow him for support, though perhaps the enquiry might be right if he petitioned for an increase of salary. Sir, there are nine years accounts at this moment lying before this House, and the account now demanded, if even voted to be brought in, being necessarily made up not for a quarter day, but an unusual time, cannot possibly be ready for inspection this session. The right hon. member is too well acquainted with business not to know this; on which account I hope the motion will be rejected, and that all enquiries into the Civil List expences may be waved till future aids are applied for, especially as I shall advise the crown to be particularly cautious in its disbursements; and never to exceed its stated revenues, but where the utility of the excess will be certain of approbation from this House.

Colonel *Barré*, in an ironical speech, expressed his surprise, that the minister should promise so much as he had, considering the pensions had increased so much lately. There was a suspicion in the people, that a great part of this revenue was expended in debauching the principles of the House of Commons; there was no occasion for ministerial candidates, the ministry having a much more gentle manner of expressing their commands than by mandates; some, for instance, were whispered they might gain a step, by not resigning (lord Lisburne) others a pension or two or three generations deep (Mr. Bradshaw and Mr. Dyson). This was the manner of procuring friends to the ministry.

Mr. *Coxe* (who sat in that part of the House where the country gentlemen generally sit) observed, that he was very happy in being amongst a set of gentlemen so very zealous for the liberty of the subject. They had been, for many years past, for retrenching the expences of the crown, and the influence of pensions on the House of Commons: he therefore had no doubt but they would concur in a vote to bring their accounts before the House.

Mr. Medley and sir W. Dolben spoke in the name of the country gentlemen, that they were very well satisfied with the present measures, and therefore hoped the country gentlemen would vote against the question. The House divided. The Yeas went forth,

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TELLERS.

YEAS	Mr. Coxe - - - -	165
	Mr. Whately - - -	
NOES	Mr. Rigby - - - -	262
	Mr. Dundas - - -	

So it passed in the negative.

*Debate in the Lords on the State of the Civil List.**] March 14. It was moved, "That an humble Address be presented to his Majesty, that he will be graciously pleased to give directions that there be laid before this House, an Account of all the Civil List Expences which were incurred, or became due, between the 5th of January 1769 and the 5th of January 1770, according to the establishment and other appointments then in use."

The Earl of *Chatham* spoke in support of the motion. He said, the Civil List is appropriated, in the first instance, to the support of the civil government; and, in the next, to the honour and dignity of the crown. In every other respect, the minute and particular expences of the civil list are as open to parliamentary examination and enquiry, in regard to the application and abuse, as any other grant of the people, to any other purpose: and ministers are equally or more culpable for incurring any unprovided expence, and for running in arrear this service, as for any other. The preambles of the Civil List Acts prove this: and none but children, novices, or ignorants, will ever act without proper regard to it: and, therefore, I can never consent to increase fraudulently the civil establishment, under pretence of making up deficiencies; nor will I ever bid so high for royal favour; and the minister who is bold enough to spend the people's money, before it is granted (even though it were not for the purpose of corrupting their representatives), and thereby leaving the people of England no other alternative, but either to disgrace their sovereign, by not paying his debts, or to become the prey of every unthrifty or corrupt minister, such minister deserves death. The late good old king had something of humanity, and amongst many other royal and manly virtues, he possessed justice, truth, and sincerity, in an eminent degree; so that he had something about him, by which it was possible for you to know whether he liked you, or disliked you.

I have been told that I have a pension, and that I have recommended others to pensions. It is true; and here is a list of them: you will find there the names of general Amherst, sir Edward Hawke, and several others of the same nature; they were given as rewards for real services, and as encouragement to other gallant heroes. They were honorably earned in a different sort of campaigns than those at Westminster; they were gained by actions full of danger to themselves, of glory and benefit to this nation; not by corrupt votes of baseness and of destruction to their country.

You will find no secret services there; and you will find, that when the warrior was recompensed, the member of parliament was left free. You will likewise find a pension of 1,500*l.* a year to lord Camden. I recommended his lordship to be Chancellor; his public and private virtues were acknowledged by all; they made his station more precarious. I could not reasonably expect from him, that he would quit the Chief Justiceship of the Common Pleas, which he held for life, and put himself in the power of those who were not to be trusted, to be dismissed from the Chancery, perhaps the day after his appointment. The public has not been deceived by his conduct. My suspicions have been justified. His integrity has made him once more a poor and a private man; *he was dismissed for the vote he gave in this House in favour of the right of election in the people*—*

Here Lord *Marchmont*, who lately talked of foreign force, called lord Chatham to order. Some lords called "To the bar, to the bar!" Lord Marchmont moved, that the earl of Chatham's words should be taken down.

The Earl of *Chatham* seconded the motion, and added, I neither deny, retract, nor explain the words. I do re-affirm the fact, and I desire to meet the sense of the House; I appeal to the honour of every lord in this House, whether he has not the same conviction.

Lord Rockingham, lord Temple, and many other lords, did upon their honour affirm the same.

Lord Sandwich and lord Weymouth would have withdrawn the motion; but

* Political Register—London Museum—Gentleman's Magazine.

* See p. 666, of the present volume.

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lord Marchmont, encouraged by lord Mansfield, persisted, and moved, that nothing had appeared to justify such an assertion.

The Earl of *Chatham*. My words remain unretracted, unexplained, and reaffirmed. I desire to know whether I am condemned or acquitted; and whether I may still presume to hold up my head as high as the noble lord who moved to have my words taken down.

To this no answer was given.*

The Earl of *Chatham*. If I am to go off acquitted, I do now declare to you, that there are many men to impeach, and many measures to arraign for the security of this nation, and the very existence of our laws and constitution; and, by God's blessing, I will arraign and impeach them. —His lordship was reproached for having recommended the duke of Grafton, and that he had pushed the duke forward, and forced him on the King, as his first minister. To which he replied, 'That he had indeed recommended him for the Treasury; but he never could be supposed to have thought of that boy as the first minister of a great nation.' He proceeded to say, 'I advised his Majesty to take the duke of Grafton as first Lord of the Treasury, but there is such a thing as time as well as tide; and the conduct of the noble duke has convinced me, that I am as likely to be deceived as any other man, that I am as fallible as my betters. It was an expression of that great minister sir Robert Walpole, upon a debate on the army, that "Those who gave the power of blood, gave blood." I will beg leave to parodize the expression, and to say, Those that gave the means of corruption, gave corruption. I will trust no sovereign in the world with the means of purchasing the liberties of the people. When I had the honour of being the confidential keeper of the King's intention, he assured me, That he never intended to exceed the allowance which was made by parliament: and therefore, my lords, at a time when there are no marks of personal dissipation in our King, at a time when there are no marks of any considerable sums having been expended to procure the secrets of the cabinet-council of our enemies; that a request of an enquiry into the expenditure of the Civil List should be refused, is to me most extraordinary. Does the King of England want to build a palace equal to his rank and dignity? Does he want to encourage the polite and liberal, or useful arts? Does he mean to reward the hardy veteran, who has defended his quarrel in many a rough campaign, whose salary does not equal those of some of your insolent upper servants? Or does he mean by drawing the purse-strings of his subjects, to spread corruption through the people, to procure a parliament, like an infamous packed jury, ready to acquit his ministers at all adventures? I do not say, my lords, that corruption lies here, or that corruption lies there, but if any gentleman in England was to ask me, whether I thought both Houses of Parliament were bribed, I should laugh in his face, and say, "Sir, it is not so." Therefore, my lords, from all that has been said, I think it must appear, that an enquiry into the Civil List is expedient, proper, and just; a refusal of it at this time will not add dignity to disgrace; but will only serve to convince the people, that we are governed by a set of abjects, who possess the peculiar talent of making even calamity ridiculous.

The motion was negatived.

* "In the course of the Debate, the earl of Chatham in his speech having said, 'That the late Lord Chancellor was dismissed for giving his vote in this House:' which words the House taking exception to; and it being moved, 'That the said words might be read:' It was moved, 'To adjourn.' Which being objected to: after debate, the said motion for adjourning was, by leave of the House, withdrawn.—Then the words spoken by the earl of Chatham were read by the Clerk, and are as follow: 'That the late Lord Chancellor was dismissed for giving his vote in this House.' Then it was moved, 'To resolve, that nothing has appeared to this House to justify that assertion.' Which being objected to: after debate, the question was put thereupon: it was resolved in the affirmative." Lords' Journals.

*Debate in the Commons on a Motion to repeal the American Tea-Duty Bill.**] March 5. The House, according to order, proceeded to take into consideration the Petition of the merchants and traders of the city of London trading to North America.

The Petition being read, lord North moved, That an Act made in the 7th of his Majesty's reign, intituled, "An Act for granting certain duties in the British colonies and plantations in America; for allowing a drawback of the duties of customs, upon the exportation from this

* From the London Magazine.

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kingdom, of coffee and cocoa nuts of the produce of the said colonies and plantations; for discontinuing the drawbacks payable on china earthenware exported to America, and for the more effectually preventing the clandestine running of goods in the said colonies and plantations," might be read. The same was read accordingly.

Lord *North:*

Sir; among the number of taxes which have given umbrage to the North Americans, the Act which lays a duty on paper, painters' colours, glass and tea, has given birth to such dangerous combinations beyond the Atlantic, and created so much dissatisfaction among the merchants trading from the mother country to the continental colonies, that I conceive it very proper for this House to give the matter a serious consideration; especially, Sir, as so many articles, the manufactures of Great Britain, are, by the Act in question, subject to taxation, that it must astonish every reasonable man to think how so preposterous a law could originally obtain existence from a British legislature. I know, Sir, at the present period, how extremely unacceptable to many gentlemen any intended favour to America will be; but such gentlemen, in the vehemence of their resentment against their fellow subjects beyond the Atlantic, must not forget the prosperity of this kingdom, and if any tax disagreeable to the Americans, should be found really injurious to ourselves, I hope they will not imitate the man in the fable, and consent to lose a single eye merely that their neighbours may be wholly deprived of sight.

With regard to the Act I have mentioned, Sir, as far as it relates to the duty upon tea, I do not see that the Americans have any mighty reason to find fault; because when that was laid another was taken off which obliged them to pay near a shilling in the pound upon an average, whereas the present only imposes three pence; therefore as America in this article feels an ease of nine-pence per pound, she cannot properly accuse us of oppression; more especially as every session has been productive of material advantages to her in bounties, free ports, or other considerable indulgences.

At the conclusion of the last session, I concurred in opinion with the rest of his Majesty's ministers relative to the expediency of writing circular letters to the American governors, promising to repeal upon commercial principles such parts of the act as were disagreeable to the people; and in this measure I concurred from a hope that kindness would recall the colonies to their former obedience, and prove a happy means of removing contention without lessening the proper dignity of government. Indeed, I heartily wished to repeal the whole of the law, from this conciliating principle, if there had been a possibility of repealing it without giving up that just right which I shall ever wish the mother country to possess, the right of taxing the Americans. But I am sorry, heartily sorry to say, that the colonies, so far from deserving additional instances of tenderness, did not deserve the instance then shewn, for their resolutions became more violent than ever; their associations instead of supplicating proceeded to dictate, and grew at last to such a meridian of temerity, that administration could not, for its own credit, go as far as it might incline to gratify their expectations; and I am now perfectly satisfied that was the tax now under consideration to be this moment wholly abolished, it would neither excite their gratitude, nor re-establish their tranquillity: they would set the abolition down, not to the goodness, but to the fears of the mother country, and upon a supposition that we were to be terrified into any concession, they would make fresh demands, and rise in their turbulence instead of returning to their duty. Fatal experience, Sir, has sufficiently proved the truth of this conjecture. We repealed the Stamp-act to comply with their desires, and what has been the consequence; has the repeal taught them obedience, has our lenity inspired them with moderation? No, Sir, that very lenity has encouraged them to insult our authority, to dispute our rights, and to aim at independent government. What is therefore to be done? Shall we, while they now deny our legal power to tax them, acquiesce in the argument of illegality, and give up that power? Shall we betray ourselves out of compliment to them, and through a wish of rendering more than justice to America, resign the controuling supremacy of England? God forbid! The properest time to exert our right of taxation, is, when the right is refused. The properest time for making resistance is when we are attacked. To temporize is to yield, and the authority of the mother country now unsupported, is, in reality, relinquished for ever.

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I am very well aware, Sir, of the great stress which gentlemen both within and without doors, lay upon the advantages of our traffic with America, and the very terrifying colours in which the least interruption of their customary intercourse is held up to the kingdom. But, Sir, I have the best reasons for thinking that the American associations not to buy British goods must be speedily self destroyed; because the Americans, to distress us, will not injure themselves; because they are already weary of giving an advanced price for commodities they are obliged to purchase; and because, after all the hardships which they say their commerce groans under, it is still obviously their interest not to commence manufacturers. It is true, indeed, our exports to America have of late fallen very much; in the year 1768 they amounted to 2,378,000*l.* In 1769 they only amounted to 1,634,000*l.* Yet, Sir, this disproportion is not to alarm us, for in 1768, expecting the non-importation which ensued, they purchased a double quantity of goods, and we may easily see how disagreeable this non-importation scheme is to the generality of the people, from the constant necessity its abettors are under of enforcing it by fraud, nay of often supporting it by blood. For these reasons, Sir, I am for retaining our right of taxing America, but of giving it every relief that may be consistent with the welfare of the mother country; and for these reasons I move, "That leave be given to bring in a Bill to repeal so much of the said Act as lays duties upon glass, red lead, white lead, painters' colours, paper, pasteboards, mill boards, and scale boards, of the produce or manufacture of Great Britain, imported into any of his majesty's colonies in America."

Governor *Pownall:*

I did, Sir, last session, endeavour to move this House, to come to resolutions, as a ground for the taking off the duties payable in America, by virtue of that act of parliament, which is the subject of the present consideration. I failed in that attempt, through various reasons arising from different quarters. I still remained convinced of the necessity of such repeal —and did then, even in the hour of defeat, pledge myself to renew the same motion again, early in this session. I did, accordingly, early in this session, give notice that I should make such motion. His Majesty's ministers, thinking themselves pledged, by the earl of Hillsborough's letter, to move for a repeal, so far as the promises held out in that letter went, desired I would give way to their motion: I did so: the motion now made from that quarter extends only to such part of those duties as are laid on British manufactures imported into America; but leaves the duties upon tea, and keeps the preamble of this Act, as a yoke upon the neck of the Americans. Instead therefore of having made my own motion, for a total repeal of every part of this Act, which relates to the laying duties on goods and manufactures imported into America—I must now take the ground of amending the motion made by the noble lord, and of extending the repeal to the whole of the duties, and to every part of the Act relating thereto.

I feel, Sir, in a very sensible manner, the disadvantages under which any one rises in this House to speak on American affairs, if it be supposed that he means to speak in favour of the Americans. I am aware of, and wish I could obviate these prejudices, which prevent every argument offered in restraint to the exertion of the power of this House—I know that what I am now going to speak may be misconstrued, and imputed to party and to faction, wishing to profit of the uneasiness and disquiets which are raised in the minds of the subjects in America; so as to take such ground for the purposes of opposing and distressing administration, as must widen the breach now made between the two countries.

The continuance of that measure, which opened again the breach after it had been repaired and closed up, is that thing alone which can keep it open, and widen it. Nothing but a continuance of the Act of the seventh of Geo. 3, can effectually do this. Moving, therefore, as I do, for a repeal of that Act, I point out that line of conduct, that spirit of government, which would quiet matters; which would bring back the people to their obedience; which would restore peace, and re-establish the due order of government.

I know it may be said, that I wish to charge the present ministers with all the bad consequences of the imposition of the duties complained of. On the contrary, I say that this was not their measure, nor are they chargeable with the consequences which derive from it, farther than they please to adopt them as their own. The consequences which are now taking effect,

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would have proved a mill-stone about the neck of those who originated the measure of laying these duties, had they remained so as to have had the struggle of carrying that measure into execution; and I only blame the present ministers for putting that mill-stone wantonly about their own necks.

I am conscious, that in what I must necessarily say, it will be imputed to me, that I am stirring up the question of right, and taking part with the faction in America, against the sovereignty of this country: on the contrary, if there did not remain (after this Act of the 7th of Geo. 3, which is the subject of your present consideration, shall be repealed) one act declaring the right of parliament, and another, viz. 4th of Geo. 3, exerting that right, I would not now take the part I mean to take in this debate. If I saw that there could any thing possibly arise (these Acts remaining) which could agitate that question, I would withdraw from this debate; because, whatever may be my opinion of that right, as now stated, I know it never will be decided by arguments, reasonings, resolutions, or even acts of parliament. It will be decided by power; and I know that we never shall have any power which we shall think reasonable to hazard by exerting—while the colonies will every day grow more and more into a capacity of disarming, if not of resisting that power: it is wise, therefore, that the question should remain, as it will, by the Declaratory Act, and the fourth of Geo. 3. But this day's debate arises from a necessity of acting; as that necessity is derived from the simple fact of the suspension of your commerce, in consequence of an imprudent exertion of your power.

I will not, therefore, argue the point on the reasons given by the noble lord, so far as he is for a repeal; for if reason, as it derives from the policy of a nation having colonies—from the spirit of commerce in a trading nation, respecting its best customers—could have had any avail, this Act would never have existed: if reason, as it derives from experience, could have any influence on those, who, from their official knowledge and practical experience, have influence in this House, it would have been repealed long ago.

I do not argue this point of the repeal, as asking a favour for the Americans—they do not now ask the repeal as a favour—they do not ask for it at all—they have not in this sessions petitioned: the petition, upon which you now deliberate, is the petition of the British merchants—the Americans have not directed their agents even to move in it—they have not, by the most distant hint, applied to any one friend to interpose in the matter. There was a time when this was asked, and would have been received as a favour—but that time is now passed, and I will say no more of it.

I do not move this matter, as seeking redress of a grievance complained of by the Americans—they have not complained to parliament, nor do they come to parliament for redress. They think that they have, in return to all their applications, experienced a temper and disposition that is unfriendly; and that those rights and privileges, which they conceive are their birthright as British subjects, equally as though they had been born within the realm, are not so understood by their fellow-subjects in Great Britain, as that the enjoyment and exercise of them can be permitted to the Americans, to the real use, and in the full extent of them. As under these sentiments and apprehensions, they are afraid to ask even favour; so will they never bring, or ever more wish to have brought before this House, or before parliament, those grievances under which they conceive themselves to labour. Although they feel deeply, yet they suffer and endure it with a determined and alarming silence. They are under no apprehensions for their liberty—they remember that it was planted under the auspicious genius of this constitution; it hath taken root; and they have seen it grow up, under the divine blessing, to a fair and blooming tree; and should any severe strokes of fate again and again prune it down to the bare stock, it would only strike the deeper and the stronger. It would not perhaps rise in so straight and fair a form, but it would prove the more hardy and more durable. They trust therefore to Providence; nor will they complain.

I do not wish a repeal as an American measure. The people who have a lead in that country wish most sincerely that this Act may not be repealed. The measure has had the effect of leading them to look to their own internal native supplies—to retrench in those which come from without—and has raised a spirit for labour and manufacture within, which will increase every day. It has necessarily placed their commerce on œconomy, instead of luxury. Those

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who have a lead have taught their fellow-subjects to consider these taxes as a prohibition—and from the salutary effects of that prohibition, they wish the prohibition to continue.

If, therefore, I was sitting here as an American consulting only their interest—I would oppose the repeal—I am sure I never would propose it; but sitting here as a British member in a British parliament, and seeing the danger, the ruinous effect of this anti-commercial law, and seeing the necessity of repealing it, I rise to argue for that repeal on the ground of that necessity, as it arises from the obstruction and suspension of your trade. The reasoning and the arguments for the repeal of this Act, stand solely on that fact; its attendant mischiefs; and its consequences to the commercial interest of Great Britain.

1. Let us then see what this fact is: refer to the petition of the British merchants trading to North America, and you will find that they in a solemn act to which they have set their names, tell you, that the trade between Great Britain and her colonies is in an alarming state of suspense, and that the interruption of this trade is principally owing to certain duties imposed (by an Act passed in the 7th year of the reign of his present Majesty) on teas, glass, paper and painters' colours imported into the colonies; and that they refer themselves to the wisdom of this House for taking such measures as may recover that so important branch of commerce. If, therefore, it is a fact that there is this alarming suspense in your trade to North America; if it is a fact that this suspense is owing to the duties imposed by this Act, now under consideration—what other remedy can your wisdom suggest, but such a repeal of that Act as shall remove the suspension, and again open the intercommunion of commerce between us: and that repeal must go to the whole of the duties imposed by this Act; for any partial repeal would be only a mockery.

2. Let us then consider the grounds on which this first fact stands, that the British trade to North America is in an alarming suspense. Who are so likely to know this fact, as those whose actions, business, and interest are interwoven with and concerned in it? The merchants trading to North America are alone the persons who can give you the proper and adequate evidence of this fact. And such is the character and spirit of commerce, that it depends upon the credit and credibility of those who actuate it. The word of a merchant thus pledged, is sacred, as his interest, and all he is worth, is dear to him. If, therefore, any one did, before this petition was read, doubt as to the fact of the suspension—when he sees the names, the credit, the honour, of such a respectable and responsible body of merchants pledged for this fact, brought in the most solemn acts to your bar—there is not a man who can suffer himself to hesitate for a moment; but if there be any one uninformed how much a certain degree of truth and credit is necessary and essential to the spirit of commerce in matters of fact thus pledged—and still thinks that the representations of merchants, like the compass, must have some allowance for variation—let such an one view with me this fact in another light.

3. As, by the barometer, I can say with certainty that when the quicksilver rises, the atmosphere is heavy; and that when the one falls, the other is light; so by the rise and fall of exchange, will the merchant tell, by necessary and inseparable connection, that the returns and remittances of commerce are in the balance increasing or decreasing in your favour. View then this state of your commercial barometer! I have here, in my hand, an account of the rate of exchange for every month through eight years, at Philadelphia, New-York, and Boston. The par of exchange has been for these years, upon an average, at Philadelphia 167½ for 100*l.* sterling; that at New-York 171¼, or thereabout; and that of Boston 133⅓. To give the fairest scope in this argument, I compare this par with the present exchange at these several ports.—Although if I was to take the usual rate of exchange, at the season of the year when the remittances are made, the proportion of the fall would be much greater; but I take the par: that exchange then which in Philadelphia hath been at par 167½, these many years, is now down to 145;—that of New-York, which hath been 171¼, is now 162; that of Boston, from 133⅓, is now 125 and 123. The par of exchange in Virginia is 125; but the exchange, which hath been up to 150, is now down to 110. This now is one of those intuitive facts in demonstration, which reasoning cannot add to the conviction of: I shall therefore only say in conclusion, that in the same proportion as this exchange is fallen, in a twofold proportion is your trade diminished—be-

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cause the remittances, which at present continue to come hither, are mostly in payment of old debts, and not for new importations. As therefore the American merchant, from the state of facts existing in his own concerns, hath told you that there is an alarming suspense in your trade: so from this commercial barometer, every merchant in the world would confirm the same fact.

4. But there remains another proof, the application of which may strike with peculiar conviction on the minds of those gentlemen who have the conduct of the moneyed matters of this kingdom. Although, during the war, the treasury did remit to America in specie such sums as were wanted, over and above what the balance of trade to this country would supply on bills drawn by the contractors; yet they never did remit specie in such proportion of quantity as they are now obliged to send over, for if there was not that suspense of trade in this country which the merchants have stated to you, they would not at this time be under the necessity of remitting any; because the balance of trade in favour of this country would supply, by the bills of their contractors, all they could want at present: whereas now, on the contrary, if you look into the accounts of extraordinaries not provided for by parliament, lying upon your table, you will see an article of 76,000*l.* advanced to the contractors, to enable them to purchase Spanish and Portuguese bullion.

Whilst the trade between Great Britain and her colonies was in that state which it was during the war, a considerable profit (which either was, or ought to have been, carried to the account of government) was gained by the sale of the contractors bills; whereas now the money is remitted to that country in specie, at a rate of near 13 per cent. difference, to the disadvantage of government; and this can arise, and does arise, from no other thing but simply the suspension of your trade, and the remittances being more scarce than they ever have been heretofore. Look back upon either of these three grounds of reasoning, and you will see this fact, that your trade is in an alarming suspense, fully established.

I do not, therefore, draw any arguments from the Custom-house accounts of exports lying upon your table, as I know, and it is confessed, that no reliance can be had upon their exactness in these points; nor will I take up the time of the House in raising those objections which every body knows lie against them.

We are told, by the same authority, that this suspension of your trade is owing to the duties imposed by this Act. Let us therefore examine how that matter arises; and you will see that it arises from the inclination and the power which the Americans, disapproving these duties, have of giving this suspense to your commerce, clogged with them. They reason thus:

The rate which you Britons, as merchants, having the monopoly of our trade, are enabled to put upon your goods, we must pay, because we have no other shop to go to. On these terms we have been your customers, from our first establishment to this day.—We have purchased from you many articles of supply, necessary to us, but which we have not been able as yet to supply ourselves with;—and in the last place, from an affection to, and affectation of, your modes and fashions, we have gone into a trade of luxury: thus the surplus of the profit of our lands, our labour, and our trade, hath, to the last farthing, centered in Great Britain. Yet, not content as merchants in thus setting the highest rate upon us which you think we are able and willing to pay—you have of late, as legislators, superadded a farther rate, by a tax: this we cannot, we will not pay. I repeat, Sir, the reasoning; we will not pay: there are certain bounds which power itself cannot pass—we see those bounds—we will not purchase those articles of supply to which you have superadded the rate of a tax. You have treated us as the overseers of great works and manufactures treat the poor labourers which are put under their direction. You set the price of our labour; and you set also the price of those supplies, which we must purchase by the fruits of our labour; whilst you are enabled to confine us to the purchasing them from you alone—and would you superadd a tax to all this? If you do—we can refuse that tax, by withholding ourselves from purchasing those articles which you have thus taxed. From various harsh measures, one part of our people have been soured—another irritated. From various inefficient exertions of your power, we have been taught to see your weakness, and to feel our own strength—and by nothing more than by this vain attempt of taxing your own articles of trade. The temper of our people is thus wrought up to, and prepared for, this species of opposition arising from self-

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denial;—and in this temper we associated in resolutions, and united in conduct, not to trade with you farther than we like, and find necessary. By recurring to ourselves, we find that we can furnish from within ourselves many articles of supply, which we used to take entirely from you. We not only find it right, but we feel from pique the disposition to retrench in many of these articles of supply, which, if we use, we must take from you—and at the moment in which we are determined to cut off our commerce of luxury, we have raised up a spirit of labour and industry which will ever multiply our supplies; and is gone far, and is every day going further into manufactures. But farther—such are the improper regulations and restraints which, by your laws, you have laid upon our trade, that the state of our trade, as now circumstanced, conspires to this suspension. It ought to be your policy to create in our commerce such articles of remittance as we may be able to make returns by, for what we purchase of you. The more we have of these, the more we shall be able and disposed to trade with you: but by your policy of confining our circuitous commerce, we want those articles of remittance which we otherwise might have. It ought to be your policy to give us a paper-currency, guarded against every possibility of a fraudulent depreciation; for if you did, every ounce of silver which we possess would go to Great Britain in trade. But you have mistaken also this line of policy, and have rendered it impracticable for us to have any paper-currency at all: so that neither having articles of remittance, nor money sufficient to keep up the circulation of this trade abroad, without distressing ourselves at home, the state of our trade coincides with our inclinations to put a suspense upon that commerce which we held with you.

I must here, therefore, draw that conclusion, which necessity, rather than reasoning, leads to the establishment of. There is an alarming suspense of your trade. I have shewn you that that exists—I have shewn you how it arises, and whence it arises—I have shewn you, that it is owing to the duties imposed by this act of parliament now under your consideration: if therefore you would take off this suspension—if you would open again the inter-communion of commerce between you and your colonies,—there remains no alternative; no half measure: nothing bu[illegible]al repeal of all those duties will produce that effect which is now become necessary for you.

But it has been said, that the associations under which this trade is suspended are unwarrantable and illegal. Associations, to illegal purposes, are unwarrantable and illegal. But so long as one British subject hath a right to purchase or to refrain from purchasing, of another his fellow-subject, any article, the terms of the sale of which he does not approve, so long will the Americans, agreeing with one another in associations of œconomy against the unbounded rates now fixed upon them, be not only warrantable towards others, but justifiable towards themselves.

This measure is, in its consequences, a species of resistance to your taxes, which the law of God and nature hath armed them with; and which the law of man cannot take out of their hands. There is nothing in this resistance which is either illegal or unwarrantable. What irregular proceedings may have been gone into by some imprudent people, in carrying these designs into execution, I neither know, nor will take upon me to justify. But I will maintain, that associations of œconomy, and self-restraint in withholding from purchasing, are justifiable, and may be prudent.

Although gentlemen do at one time represent these associations as unwarrantable, and what ought to be rendered penal, if they are not so already—yet the same gentlemen, at another time, think them fruitless attempts, which will dissolve and moulder away of themselves.

There are amongst all people, indecisive and false men—and from the certain mixture of such men, no associations, where particular breaches of such are in the power of particular individuals, will be universally, uniformly, and strictly adhered to: but such, on this occasion, will be found the union and perseverance of the people in general of America, that unless Great Britain can sit down content with the sale of some few articles, which her merchants may be able to smuggle into America, contrary to the faith of those engagements, she is under a necessity of repealing this Act of the 7th of George 3. I therefore repeat, that if a repeal is become necessary, to the opening again the inter-communion of commerce between us and our colonies, it must be such as will open it—a total repeal of all the duties in this act.

If any gentleman reasons, that he is of opinion for repealing the duties on paper,

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glass, and painter's colours, because those duties, so imposed, are anti-commercial, and obstruct the vent of these articles—if he reasons fairly, I will lead him, by the same arguments, to the repeal of the duties on tea—which I will shew to be in a state much more anti-commercial than those duties which are proposed to be repealed.

If I do not shew this, I will concede to the motion brought forward by the noble lord; but if I do, I will then expect, from his candour, that he will accede to the amendment which I have proposed.

The spirit of commercial policy must ever tend to the creating and enlarging the vent of every article of commerce, which by your trade, as well as by your manufactures, you make an article of your own trade—but such is the bargain which government hath entered into with the East India Company, that it is no longer the wish of that great corporate merchant to make this very considerable article of commerce an article of supply for your colonies: for as there is a drawback of 25 per cent. upon every pound of tea that is exported from this island; and as they are bound by their engagement to make good every deficiency that may be occasioned by this drawback; it ceases to be their interest to export these teas—nay, it becomes their wish, that if the 3*d.* per pound duty, which you have laid in America, does not yet operate to prevent the exportation from hence to that country, that you may lay on five times as much; or any duty that may prevent it.

If the Dutch do not yet, from Holland directly, or through their islands in the West Indies, supply the colonies entirely with this article, it becomes the interest of this British corporate merchant, circumstanced as matters stand by this agreement, to wish that the Dutch may do it entirely.

There are those in this House, who hear me speak, know that this is the case; and if this case is not infinitely more anti-commercial, than any trifling duty laid upon your own manufactures, ideas and things have lost all connection with one another, and there can be no reasoning about it.

I have heard it said that this 3*d.* per pound duty on tea, collected in America, does, while a drawback of 25 per cent. is allowed here, operate as a bounty of 9*d.* per pound in favour of the Americans.

In the first place; the drawback upon those teas, exported to America, of 25 per cent. does not amount, as this argument supposes, to one shilling per pound; it amounts only to 7$\frac{1}{2}$*d.* or thereabouts; so that did it operate as a bounty at all, it would amount only to 4$\frac{1}{2}$*d.* But this is not material to the point; for it does not operate as a bounty at all; because whatever duty the East India Company pays originally at the Custom-house, on the importing teas from Asia, that sum is added to the price of their tea in their sales: so that although the exporter to America may be allowed a drawback, yet he draws back that sum only which he hath already paid in the price of his purchase; by which means, as this article of supply now stands, there is an advantage in favour of the Dutch teas imported into the colonies, against the British teas, of 25 per cent. difference: this then, surely, as I said before, is in a more anti-commercial state, than those duties which have been proposed by the noble lord to be repealed.

But why should I combat these reasons—they are the artificial, the ostensible reasons only. The true reason of making this distinction is—that by thus continuing the duty on tea, you preserve the preamble of the Act, you still keep the yoke about the neck of the Americans; although you avow that you do not mean, you have not indeed any hopes, that you shall be ever able to make them draw with it.

As the keeping this preamble, in order to the maintaining your claim, and this paltry duty, in order to the exercise of your right of taxing the Americans, is a real reason; I will speak plain out: it is not so much the value and burthen of the taxes raised by these impositions, as the preamble itself which gives the offence, which raises the alarm in America.

This preamble holds forth false pretences I hope I am not going to use an unwarrantable expression; it is an expression of legal use. This preamble, Sir, in giving the grounds and purport of the Act, purports to raise money from the subject under false pretences; it suggests, that the support of government is not provided for by the people of the colonies, and proposes to raise a more adequate revenue for that purpose. Now, Sir, the fact is, that the support of government is every where provided, and in many of his Majesty's provinces has been done (literally conformable to his Majesty's royal instruction) by a permanent revenue for that purpose. But what has been the effect of this? The assemblies, in their making this provision, have

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not been (except in the island of Jamaica; for which wise caution the people were obliged to the father of a worthy and right hon. magistrate) sufficiently suspicious and cautious in fixing the appropriation of that revenue; and it has been most injuriously, I had almost said illegally, perverted from the purpose for which it was granted; and perverted by grants from the crown of annuities, and of pensions for two or three lives, and for terms of years. This has been, and is the case of the 4½ per cent. duty, granted for these purposes by the several assemblies in the islands, wherein the people have imposed these duties on themselves—a duty which raises a revenue more than adequate to all these purposes; yet having unjustly perverted these grants, you call for a grant by the Act of the 7th Geo. 3, in order to raise a more adequate revenue.

That it may not be thought, that in saying the 4½ per cent. duty was meant, and so understood, as granted and raised for the use and purpose of the governments who gave it—I will shew you that I speak the language and opinion of the House—I beg leave to read a vote of the House of Commons, on March 14, 1701-2. "Colonel Grenville reported from the committee, That they had directed him to move the House, that an humble Address may be made to her majesty, that the duty or impost of 4½ per cent., arising in Barbadoes and the Leeward Islands, (subject to an annuity payable to the heirs and assigns of the earl of Kinnoull) be applied to the repairing and erecting such fortifications, and other public uses, for the safety of the said islands, as her majesty shall direct; and that an annual account, how the said duties shall have been expended, may be laid before the House of Commons." Which Address was ordered accordingly; yet these duties have never been thus accounted for; but, on the contrary, perverted to the private uses of pensions.

The like may be said of the quit-rents; which, although they be the King's rents of his demesnes, are yet rents paid for the protection of the state.

And after more than 40,000*l.* per ann. raised from the people, have been perverted from the real uses for which they are paid, this Act comes and calls for, and purports to raise a more adequate revenue for the same purposes—imposes duties for the raising it on those who have in the most ample manner provided such already; and, after all, does not raise enough to support the establishment of the collection; much less an adequate support to the civil government, the administration of justice, and the protection of his Majesty's dominions:—and after the taking off the duties from paper, glass, and painters' colours, will not raise (if it raises any thing) above 7,000*l.* per annum. Yet under pretences of keeping up the claim and exercise of this theory of a right, which you never can force into existence, are all these false assertions, unjust claims, and false pretences continued to be held forth in the purport of this preamble, and to the disgust of your best customers, and to the continuing the suspension of your trade with them.

But it has been asked, and great part of the reasoning hath gone upon the hypothesis of this question, if a repeal of all these duties, contained in the Act of the 7th of Geo. 3, was to take place, would the Americans be satisfied? Would this quiet their minds? So far as the commercial measure recommended would prove a commercial remedy, so far would it operate; it would operate to the full extent in removing the grievance complained of by the British merchant; which is the subject of your present consideration: it would take off and remove that alarming suspension, by which your trade is at present obstructed; it would open again the intercommunion of your commerce with your colonies; which is the end sought from your wisdom, by the prayer of this British Petition.

If it be asked, whether it will remove those apprehensions and fears, which your resolutions of last year, and your address and advice of sending for the subjects in America, on the supposition of treasons, in order to be tried here, have spread throughout the colonies? I answer, No. If it be asked, if this commercial concession would quiet the minds of the Americans, as to the political doubts and fears which have struck them to the heart throughout the continent? I answer, No. They at this hour know not whether the Petition of Right, whether the Act for abolishing the Star Chamber, whether the Habeas Corpus Act, whether the Bill of Rights, whether the common law, as now existing in England, extend to, and have (reasoning as you do) their operation and effect in America. Nay, more—as the military establishment now stands and operates, they know not whether their civil constitutions are not, so far forth as this is

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paramount and supreme, abated, and superseded.

It hath also been argued in the reasoning of the noble lord, that if taking up the consideration of the anti-commercial state of this Act, we do not form the distinction between duties laid upon British manufactures, and duties laid on other goods and articles of trade indifferently; and if we do not draw this line of distinction through this Act, there can be no bounds to the demands of the Americans, no bounds to our concessions: our regret must be indefinite. I am unwilling to repeat what I have said before, but I must so far beg the patience of the House, as to mark, that this Act, purporting to impose duties for the purpose of raising a revenue, for the support of the civil government of the several provinces, independent of the assemblies of those provinces, marks a most essential distinction in the peculiar grievance, by which (in the opinion of the Americans) it endangers their rights and political liberty. They know that we here in Britain think, that parliament keeping in its own hands the support of government, and the disposal of the supplies necessary to the execution and administration of it, retains the best pledge and security for the freedom of the people and the liberty of the state. They know how jealous and tenacious we are of this right, this power: and they, as British subjects, entitled to all the rights and franchises of the British constitution, reason, that this power, this right of keeping the like check over the civil governors and civil magistrate in their own similar constitution, is equally an essential of their security, equally their right. They know that they have enjoyed this right, and have exercised this power, from their first establishment, to the day of the date of this Act. And considering this Act as moving old boundaries, they see no other boundaries for the security of their liberties. In thus removing these old boundaries, in taking away the security to which they trusted, this Act differs from all others which have ever passed in parliament. They consider it in its tendency, as a suspension of the principal, and of one of the most essential uses of an assembly. Here, then, is the distinction: and therefore until the whole of this Act, so far as it operates to this grievous and alarming effect, is repealed, they never will, they never can be easy. Upon this principle then, I say, that the total repeal of this Act does not lead, by any consequences, or corollary, to the repeal of any other.

But having so strongly urged what a partial repeal will not do, it behoves me, in the end, to show what a total repeal will do, what effect it will have. Whoever views with discernment the relation and connection between Great Britain and her colonies, will see, that the merchants in America, and in England, are the links of the chain that bind both countries together; they are deeply concerned in preserving the union and connection. Such a one will see, that whatever opinion we may superficially entertain of the operation and effect of our sovereign government, commerce, and inter-communion of our mutual wants and supplies, is the real power and spirit of attraction, which keeps us united. The operation of this has been, and is at present suspended. The repeal of the whole of this Act, which relates to the laying duties for the purpose therein specified, will alone take off this suspension, and cement again our union, by the best and surest principle. The getting back to this inter-communion will give us grounds of agreement, and may, upon those grounds, lead again to that happy spirit of government, under which the people knew no bounds to their confidence, no scruples in their obedience, and under which government led the people almost by enchantment. Having therefore, Sir, these opinions, on one hand, of the inefficacy of a partial repeal, as moved by the noble lord; and having, on the other hand, so thorough a persuasion of the good effects of a repeal, which extends to all the duties, and every other matter in this Act respecting them, as necessarily extending also to the repeal of the preamble, I beg leave to propose an amendment to the motion, by extending the repeal to all the duties; and therefore beg leave to move, that after the words "Great Britain," and before the word "imported," be inserted the words "and upon teas."

Mr. *George Grenville:*

Sir; whenever the affairs of America are agitated in this House, I am, in some measure, called upon to speak, because the principal confusions of that country are supposed to originate with me. I can, however, safely aver, that if the Stamp Act was injudicious in the mode, it was at least salutary in the intention, and meant for the common good

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both of the mother country and the colonies. In laying this tax, Sir, I imagined that every part of the British empire was bound to furnish its portion for the general prosperity, and I could not see any violation committed upon American freedom, by an immediate tax upon the property of the colonists, when they cheerfully submitted to our laws which regulated the acquisition of that property. Besides this, to use the chief argument of the Americans, and to admit that the happiness of this country is inseparably connected with the welfare of the colonies, I considered that they had the best of all securities for our never exercising the right of taxation improperly, the security of our own interest; this was to be relied on, even if our justice was to be questioned, and though we might be wanting in equity to them, it could not be expected that we should be deficient in consideration for ourselves.

The administration succeeding that in which I had the honour to be employed, proceeded also upon a system, though totally the opposite of mine, and thought that by complying with the wishes of the Americans they would advance both the peace and prosperity of the two countries: they therefore restored matters to the state in which they stood before the existence of the Stamp Act, but at the same time preserved the dignity of this House, by a law positively declaring our right to tax America. Since that administration government has acted wholly without plan, without system with regard to the colonies: one set of ministers has instituted a tax diametrically repugnant to the principles of commerce, and yet of no consequence to the kingdom, for it does not bring in 16,000*l.* a year: this has thrown America into a greater ferment than ever, and as the ministers now are proceeding without system, I cannot on the one hand suppose that a partial repeal of the present tax will reduce the colonies to temper, nor on the other by forcing government into a total repeal, can I suppose we have sufficiently provided for the dignity of the nation. I shall not therefore give my voice upon the present question.

General *Conway:*

Sir; I shall trouble you with very few words upon this debate, for I think it a question that cannot admit of much altercation in a dispassionate assembly. I have always considered it the birth-right of every Englishman, to have a voice in framing every law by which he himself is to be taxed, and I cannot consider a fellow-subject in America less entitled to this inestimable privilege, than a fellow-subject in England. In reality, Sir, if we had found the Americans slaves, reason and humanity called loudly upon us for their instant emancipation. Our constitution knows nothing of oppression, it abhors tyranny, it is founded upon the noblest principles of benevolence, and is calculated to guard the universal independency of the people. This being the case, I considered the Stamp Act, I consider the present tax, as an illegal burden placed upon the shoulders of the Americans. They are not even virtually represented amongst us, and when we suspected their loyalty without cause, they doubted of our affection, of our equity, with reason. I am therefore for the entire repeal. I cannot think it derogates from our honour to do what is evidently right, nor can I think the Americans have forfeited their claim to justice, because they have spiritedly exerted themselves to obtain it from the mother country.

Sir *William Meredith:*

Sir; it amazes me not a little to find administration so perversely, so inflexibly persisting in error on every occasion; it is surprising, to use an expression of Dryden's—"That they never deviate into sense," nor stumble upon propriety by downright accident. The only reason, Sir, why they refuse the total repeal of the present tax is, to preserve the preamble, because it maintains the right of taxing the Americans. But surely as there is a positive law declaratory of the right, and there is even another tax at this moment in force, exercising the right, there can be no just reason for not indulging the Americans with the motion as amended before the chair. I am the more earnest for an entire repeal, Sir, because a partial one, instead of producing any benefit to the mother country, will be a real grievance; a certain expence to ourselves, as well as a source of perpetual discontent to the colonies; for by removing the duties upon painters' colours, paper and glass, while we continue the trifling tax upon teas, we keep up the whole establishment of the custom-houses in America with their long, their hydra-headed train of dependents, and yet cut off the very channels through

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which their voracious appetites are to be glutted. In fact, the tea duty will by no means answer the charge of collecting it, and the deficiencies must naturally be made up from the coffers of this kingdom; so that this wise measure of a partial repeal is to plunder ourselves, while it is to oppress our fellow-subjects, and all for the mere purpose of preserving a preamble which is utterly unnecessary. For shame, Sir, let us dismiss this pitiful preamble tax, and let us make the repeal total, unless our ministers would convince us that a provision for their custom-house instruments beyond the Atlantic, is the only motive for this shameless profusion of the public treasure.

Colonel *Barré:*

Sir; I am for the whole repeal of the law which now engages the attention of the House, and this for a reason which has not yet been mentioned, as well as for several which have been forcibly urged in favour of the Americans. Sir, this House plighted its faith to the East India Company, to remove the duty of 25 per cent. from teas, in order that the Company might be enabled to sell their teas upon terms equally low with the Dutch, whose moderation in price constantly obtained a preference at every market. We indeed took off the 25 per cent. accordingly, but what we did with one hand, we undid with the other; we laid a fresh duty on the commodity, and laid this duty moreover in such a manner that it must act as an absolute prohibition to the sale of their teas through the extensive continent of English America, where they were in general estimation. To prove this assertion, Sir, suffer me to inform the House that in the year 1768 the teas sent to America amounted to no less than 132,000*l.* whereas in 1769 they amounted to no more than 44,000*l.* and probably this year they will not exceed a quarter of that sum, as the proceedings of this country are hourly becoming more and more repugnant to the minds of the colonies, and as agreements have been lately entered into for the absolute disuse of the article: in justice, therefore, to the East India Company, who have so considerable a stake in the national welfare, and pay so liberally to the support of government, we ought to discharge our promise with the most punctual fidelity: the discontinuance of the 25 per cent. on their teas is not a discharge of our promise: our promise is not discharged unless we enable them to sell upon terms as reasonable as the Dutch, and unless we liberate their trade in this commodity instead of loading it with new embarrassments. With regard to the propriety of repealing the law before us from principles of justice to the colonies, and utility to the mother country, I shall say nothing, as this has been fully proved by gentlemen of much greater abilities in the course of the present debate. I will only add, that as a speedy rupture between England and its old enemies is far from improbable, administration would act wisely in reconciling our domestic divisions, and regaining the confidence of America, before an event of that nature happens to render their situation additionally perplexing: national concerns should now engross their attention in the room of private resentments, and they should seriously advert to the interests of a great empire, instead of pursuing the blessed example of Domitian and hourly torturing flies.

Lord Barrington and Mr. Welbore Ellis opposed the Amendment, and also the original motion: they were not for taking off the tax at all; as they saw no probability that this would quiet North America; they therefore were for putting this Act in execution absolutely, and by all the powers of this nation united.

The Amendment being put, the House divided: the Yeas went forth.

Tellers.

Yeas	Mr. Nicholson Calvert Mr Coxe - - - -	142
Noes	Lord Frederick Campbell Mr. Burrell - - - -	204

So it passed in the negative.

*Debates in the Commons on the Remonstrance of the City of London to the King.**] March 15. Sir *Thomas Clavering* rose and said:

Sir; I have waited all this morning with particular anxiety, in hope that something, either by message or motion, would have been submitted to our consideration, relative to the extraordinary Remonstrance of yesterday, in which the independance of this House is not only arraigned, but its authority peremptorily denied, and the sovereign arrogantly informed, that we are not the representatives of the people. As nothing however

* London Magazine.—London Museum.

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has been offered upon this important subject, and as the time for making motions is nearly expired, I think it my duty, as a good subject, and an upright member of this House, to move, "That an humble Address be presented to his Majesty, that he will be graciously pleased to give directions, that there be laid before this House, a copy of a paper, intituled, 'The humble 'Address, Remonstrance, and Petition, of 'the lord mayor, aldermen, and livery, of 'the city of London, in common hall assembled,' presented to his Majesty, on the fourteenth instant; together with a copy of his Majesty's Answer to the same." *

The *Lord Mayor* (Mr. Alderman Beckford), immediately rose and said:

Sir; I should be greatly wanting to my duty, did I not, on this occasion, stand forth and avow the part I have taken in this transaction. I was at the meeting of the livery at Guildhall; assented to the Remonstrance; and afterwards attended the delivery of it at St. James's. This conduct was dictated to me, by reflecting on the very extraordinary state of the nation at this juncture, when the crown is advised to take no notice of the many petitions presented by numerous and respectable bodies of men from almost every quarter of the kingdom. I therefore, was of opinion, that a measure, striking as this Remonstrance is, might awaken an attention to enquire into, and to remove, the causes of public discontent. And I stand here, Sir, ready to abide, in common with the gentlemen near me, the consequences of our conduct.

Alderman Trecothick, the Sheriffs Townshend and Sawbridge, acknowledged and gloried in their share of the transaction. They professed themselves satisfied no less with regard to the justice than the expediency of the measure, and declared they were so far from wishing to conceal their part in the transaction, that they considered it the most fortunate trait in their characters.

Mr. *Townshend* said, he should vote against the question, as he looked on the House as not competent in the present case; it being the party accused in the Remonstrance, would have the resemblance of a culprit sitting in judgment on a judge, who would certainly send that judge to Tyburn.

Lord *North* pressed for the question. He spoke in a very high stile; said, the House of Commons was not corrupted; that it was now essentially necessary to vindicate the honour of the House: he was surprized to see those gentlemen who avowed the Remonstrance, attending parliament, as they disavowed its being a parliament. There were many reasons for taking it into consideration; the King in his Answer had said it was disrespectful to himself; this alone was a sufficient reason, as it was the duty of parliament to

* "The members in opposition were encouraged and supported in their exertions by a corresponding turbulence which was generally prevalent in the city of London, particularly among the lower class. A statement of their proceedings becomes necessary for the perfect understanding of the subsequent transactions in parliament. A memorial signed by six liverymen, was laid before the common-council, complaining that the Petition presented to the King the preceding year, had not been answered, and requesting the convention of a common-hall, for the purpose of taking proper measures for the re-establishment and security of their ancient rights and franchises. This memorial occasioned great debates in the common-council: it was supported by the lord mayor and sheriffs, and opposed by all the rest of the aldermen; but such was the prevalence of the sentiments by which it was dictated, among the lower order of members, that the motion for calling a common-hall, to address a Remonstrance to his Majesty, was carried by a considerable majority. The common-hall was attended by nearly 3,000 of the livery. The lord mayor spoke in the popular style, of the violated freedom of election; of little, paltry, rotten boroughs; of the number of placemen and pensioners; and of the more equal representation of the people. A prepared Remonstrance was then produced, analogous in its contents, to the lord mayor's speech, and proffered for signatures. This paper was received by the livery with transports and shouts of applause, and ordered to be delivered to the King on the throne. As it was intitled an Address, Remonstrance, and Petition, some difficulties arose at St. James's respecting the mode in which it should be presented; but at length the King granted the required audience. The lord mayor, and a train of common-councilmen, liverymen, and city officers, amounting to upward of 200, were introduced: the common serjeant began to read the Address, but abashed and terrified in his progress by a due consideration of the insolence of its contents, was unable to proceed; the common clerk laboured under no such difficulties, he took the paper and read it to an end. The proceedings of the city did not pass without animadversion in parliament." Adolphus.

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prevent any disrespect being shewn to the King, and especially it became the duty of the House, when it was also said to be injurious to parliament, and irreconcilable to the constitution, which he said it certainly was, as it prayed the King to take notice of a transaction of the House, which would be a breach of privilege in the King to have done. Speaking of the lord mayor, he called him, "that worthy magistrate, if I may still call him worthy, after this action of his."

Mr. *Edmund Burke:*

Sir; I cannot look upon the present motion without the deepest concern. I cannot consider the present situation of my country without the most sensible regret: torn, distracted as we already are, with intestine divisions, is it not amazing that any gentleman, instead of wisely trying to heal our wounds, should endeavour to render those wounds still wider, and instead of applying lenitives to mitigate the rage of the political fever, should madly administer such inflammatives, as threaten the actual existence of our constitution?

The object of the motion before you, Sir, is to cast a stigma upon the chief city of the British empire: a city which, on numberless occasions, has proved herself the true friend to freedom; the undaunted supporter of justice, and the invincible champion of our glorious constitution. A measure of this nature would at any time be extremely injudicious; but in a period like the present, it is big with a thousand dangers. The metropolis, Sir, is composed of the wealthiest citizens in the British dominions; their number is great, their influence prodigious, and their proceedings are, in general, the rules of action for all the inferior corporations in the kingdom. To brand them, therefore, at any time with a mark of obloquy, is to render an extensive share of the people dissatisfied, either with the equity or the moderation of government. It is to make that very part of the community to which in the hour of public exigence we fly for assistance; from which we supplicate our loans, and obtain the essential sinews of political strength, our declared, nay, what is more, our confirmed enemies; and out of resentment to them, to do a manifest outrage upon ourselves.

This, Sir, would at any time be the consequence of offending the city of London: but, in the present case, the evils must be infinitely more complicated and alarming. To censure the citizens for what nine-tenths of the whole empire consider as an act of the most exalted virtue, is to rouse the indignation of every honest subject in the extensive circuit of our dominions. It is to aggravate the fury of a discontent, already too pregnant with danger, and to open a scene of horror, that will not close perhaps, but on the total overthrow of the constitution.

Were I, Sir, an enemy to administration, instead of being simply an opposer of measures, and could I be base enough, through pique to any man in office, to overlook the welfare of my country, instead of rising up to oppose the present motion, I should be one of the most strenuous to support it, because I am positive nothing could so certainly accelerate their destruction. But, Sir, I am incapable of taking a mean revenge, however I may be injured, and I never will smile in the face of a foe when I mean to strike at his heart. For this reason, as well as for the infinitely more important reason of public good, I stand up to oppose the question before the chair; to bear my testimony against its injustice, against its inexpediency; to support the unquestionable birth-right of the British subject, and to defend the sanctity of our laws.

It is an observation sufficiently supported by the experience of all states and all ages, that a fluctuation of councils in any kingdom is a manifest proof of its imbecility; admitting the position therefore, and applying it to the councils of Great Britain, I believe the records both of ancient and modern history, will find it utterly impossible to point out an æra of such weakness, as the last nine years of the English annals. During this period, Sir, the direction of public affairs has been in no less a number of hands than Mr. Pitt's, lord Bute's, Mr. Grenville's, the marquis of Rockingham's, the duke of Grafton's and lord North's; so that if we were to divide the nine years equally between them, there would be just a year and a half for every separate administration. In the nature of things, Sir, this fluctuation of ministers could not be productive of salutary effects. Each different minister, without impeaching either the clearness of his head, or the probity of his heart, had his own peculiar plan of action, so that system continually contradicted system; what was done by the premier of one day was counteracted by the premier of the next, and, like Penelope, the whole wis-

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dom of the legislative power was employed to unravel the political web, which cost such prodigious labour in the formation.

The consequences resulting from this heterogeneous medley of opinions were such as a sensible man might naturally expect; confusion became evident through every department of the state; reason was sacrificed to conjecture, and the reiterated experience of years were neglected, for the dreaming of flimsy speculation. Thus situated, the question at last was not, who could do the public business best, but who would undertake to do it at all. Men of talents and integrity would not accept of employments where they were neither allowed to exercise their judgment, nor display the rectitude of their hearts. They could neither prostitute their parts, nor their principles, to the arbitrary fiat of an all-directing favourite, and therefore such only as could stoop to the despicable drudgery; such only, as, regardless both of honour and shame, could wade through the more than Augean stable of the state, and rush through infamy into office, were deemed fit for confidence, or could be prevailed upon to take up places of trust. The effects of these blessed arrangements were quickly discovered; the blunders committed through ignorance, were to be supported by violence, and the nation was to feel the unrelenting despotism of a tyrannical administration, because it exclaimed against the incapacity of fools. Hence having expelled a member of this House without cause, they proceeded to strip his constituents of their privileges without reason—and so that a paltry resentment against a single individual could be gratified, no matter what ruin they dragged down upon the community.

Through all the distresses, however, all the miseries, which absurdity in the extreme, and little-minded rage, stung by disappointment into madness, brought upon the nation, the people still preserved their temper from an inviolable affection for their sovereign; and did not think of approaching the throne with their grievances, till the malversation of ministers threatened immediate destruction to the state; till the sacred right of election, wrested from their hands, filled the freeholders of Great Britain with universal apprehension for their liberties, they never disturbed the royal repose with their complaints. But oppression having now exceeded all bounds—the axe being at length laid at the very root of the subject's independence—the people of England can be silent no longer: their silence at this time would be no less injurious to their sovereign, than dangerous to themselves: they have therefore in a constitutional, in a legal, in a becoming manner; in a manner equally honourable to their independency as Englishmen, and to their attachment as loyal subjects, informed the throne of its enemies, and of their own sufferings; they have pointed out the disease and the remedy: the source of our calamities, and the means of redress. And shall we, Sir, because they have on this important occasion exercised the right of Petition and Remonstrance, which is secured to them by the laws, and particularly guarantied by the glorious Revolution; shall we, I say, load them with the censure of this House? Forbid it reason, forbid it justice, forbid it liberty! This House is instituted to protect the freedom of the subject, not to punish the subject for demanding to be free; it is instituted to scrutinize into the actions of ministers, not to be the desperate instrument of ministerial revenge.

On these accounts, Sir, let us reject the present motion, as pregnant no less with evil than absurdity. Let us not condemn that public virtue in the citizens of London which should actually excite our admiration: nor treat that candour in their Remonstrance, which is highly meritorious, as if it was the effusion of disloyalty: it is the right of the British subject to petition, let us not deprive him of that right; the right of election has been already violated, let us not do aggravated injuries to the constitution. If the minister however has no regard for the peace of the nation, let him at least have some little regard for himself. The motion which brings the Remonstrance before us, also brings the Answer it received, and possibly that answer may undergo as severe an animadversion as the spirited production to which it owes its existence.

Lord *North*:

Sir; as I wish to leave the discussion of every question in which I may be either remotely or immediately concerned entirely to the determination of this House, and flatter myself I shall never be concerned in any measures which I shall be either afraid or ashamed to avow, I do not mean to give a reply any farther to the hon. gentleman who spoke last, than I am hinted at in the close of his speech. In this he

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advises me, for my own sake, to be careful how I endeavour to bring the Remonstrance of London before the House, lest the Answer to that Remonstrance should undergo a severe animadversion.

I am not to be informed, Sir, that in the language of opposition, every speech and every answer proceeding from the throne is set down as the speech and answer of the minister. I will go farther, Sir, I will admit the language of opposition to be just. I will admit, that every minister should be responsible for the advice he gives his master, and acknowledge that no favourable idea can be reasonably entertained of his character, who refuses to avow the part he acts. On this account, Sir, I rise to prevent the possibility of debate with regard to the Answer given to the Remonstrance, to declare, that it was given by my advice, and that I think myself answerable for the consequence; while I have the honour of serving his Majesty I shall dread no enquiry into my actions. I am above the practice of duplicity in any station, and as I shall always mean well at least, some favour will be due to the rectitude of my intention, even where I may run into mistakes. Having said this, Sir, it is only necessary to add, that as I am ready on all occasions to submit my own conduct to examination, so nothing shall prevent me from enquiry into the conduct of others, where the enquiry appears of the minutest utility to the public.

Mr. Attorney General *De Grey* observed, that for a parliament to proceed in raising money, and passing bills, and suffer themselves at the same time to be told that they were not legal representatives, was an iniquitous farce; and that for a chief magistrate to tell subordinate subjects, they were not to obey, was an act of wickedness and folly, almost without precedent.

Mr. *Wedderburn:*

Sir; if the issue of the present debate regarded the ostensibility of the minister only, and was not of infinite importance to the kingdom at large, I should be one of the first to approve the candour of the noble lord who spoke last, and to own, that, if he does not possess more wisdom than his late predecessor, he, at least shews more manliness, and more probity, in publicly acknowledging himself the adviser of the Answer to the City Remonstrance. But, Sir, it is not the ostensibility of a minister which is now under consideration, but the inexpediency, the injustice of censuring any part of the people for the exercise of a right, which is warranted by the constitution; which is supported by the dictates of reason, the authority of precedents, and the positive declaration of our laws.

An hon. member, for whose opinion I entertain the highest deference, has, in a masterly manner, pointed out the inexpediency of branding so capital a part of the people, as the city of London, with the censure of this House; and he has told you, in forcible terms, the danger of offending that very body of the subjects, among whom your loans are to be raised, your credit is to be supported, and the whole empire, either in peace or war, is to be immediately indebted for the sinews of its political existence. Powerful, Sir, as these arguments may be in an auxiliary light against the motion, what we are to confine ourselves to is the justice of the procedure. Our sole consideration is simply, whether the people have, or have not, a right to petition; whether they are, or are not, legally authorized to lay their grievances before the throne, whenever they imagine themselves oppressed; and whether all prosecution at law, for the exercise of this privilege, is not expressly prohibited, in that palladium of public liberty, the Bill of Rights.

Sir, the loudest advocate for the motion before the House, will not pretend to deny the right of the people to petition, nor pretend to deny that they are wholly exempted from judicial censure on that account. Among the many blessings arising to the kingdom from the glorious Revolution, the privilege of complaining to the throne without the danger of punishment, is one of the noblest. The people in this respect are the sole judges of the necessity for petitioning: it is as much a part of their prerogative, if I may so express myself, as it is a part of the royal prerogative to assemble parliaments, or to exercise any other power warranted by the constitution. Seeing, therefore, that this is the case, I must ask, with what shadow of propriety, with what colour of reason we arrogate a liberty of examining their proceedings? With what countenance do we presume to fly in the immediate face of the laws, and confidently assert, that they shall be punished, for what the laws peremptorily declare they shall not even undergo a prosecution. If this is our idea of reason, our conception of

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justice, let us for the future be distinguished for inconsistency and violence. Even, admitting, Sir, on the present question, that the people have been mistaken, that they have erred, that there are in reality no grievances to complain of, and that the manner of their Remonstrance is as disrespectful, as the matter of it is unjust; still, Sir, as the laws positively pronounce their right of petitioning, and their exemption from consequent prosecution, we are precluded from every enquiry into their conduct. They may be indiscreet, they may be warm, they may be turbulent; but let us not be rash, unwarrantable, and arbitrary. Let us not, while we are so nicely attentive to the errors of others, rush into palpable illegalities ourselves. Our power is great; but the power of the law is much greater. For this reason, Sir, I oppose the motion now before the chair; I cannot consent that our love for equity should make us inequitable, that our regard for peace should lead us to spread the flames of discord through the land, nor concur, that our solicitude for the safety of the constitution, shall vindicate our stabbing that constitution to the heart. Remember, Sir, one of the capital blemishes of James the 2nd's reign, was punishing the Seven Bishops for petitioning. Similar causes must always be productive of similar effects: we are yet safe: it is yet in possibility to retrieve all; whereas, if we proceed from violence to violence, if we go on in exercising our power against the sense of our conviction, and sacrifice our honesty to gratify the malignity of our resentment, the consequences must be dreadful in the end. The people may be injured, but they will prefer annihilation to chains: universal anarchy must ensue, and darkness, as the poet forcibly expresses it, be alone "the burier of the dead."

Mr. *Dyson:*

Sir; though I acknowledge that there is a great deal of specious argument in the speech of the hon. gentleman who spoke last, I am nevertheless of opinion, that when it is examined, we shall find it more elegant than convincing, and rather a proof of the hon. gentleman's abilities, than a mark of his candour. I must beg his permission, however, to make a few cursory observations on what he has offered to the Chair; and as he has confined himself chiefly to the legality of our entering into the merits of the Remonstrance, I shall engage with him on his own ground, notwithstanding all my deference for his judicial knowledge, and even flatter myself with the hope of a victory, because reason is evidently on my side.

I readily allow, Sir, that by the Bill of Rights as well as by the genius and constitution of this kingdom, the people are justly entitled to the right of petitioning the throne, whenever they may imagine themselves oppressed. If this was not absolutely the case, if they were not legally possessed of this privilege, it would be our business, our duty, to procure it for them, that their persons and their properties might receive an additional share of security, that, by encreasing their consequence, we might encrease the strength of the state, and by extending the happiness of the individual, extend the happiness of the whole community.

But, Sir, while I am thus an advocate for the freedom of the people, while I am thus as strenuous for the right of petitioning as the hon. gentleman who spoke before me, still I am satisfied that law, reason, and necessity, must wish to lay the petitioners under some salutary regulations; that they must be influenced by truth, and guided by decency, that the matter of their petitions should be real, and the manner of them such as should be respectful to the sovereign. If petitions to the throne are not confined within some salutary restrictions of this nature, instead of proving a blessing, they may prove the greatest curse the kingdom can possibly experience. Our foreign foes, or our domestic enemies, if all petitions to the throne, by being petitions, are to pass uncensured, may at any time stir up a multitude to complain of grievances that never existed, and to make requisitions of the most extraordinary, the most dangerous tendency to the crown. They may humbly beseech his Majesty to abdicate, and pray that he will be graciously pleased, to place the sceptre in the hands of the family expelled. Or if by some temporizing concession to their prejudices, he chances to gain a more than ordinary portion of applause from the populace, they may perhaps wish in the headlong vehemence of their zeal to see him seated on an arbitrary throne; and in a constitutional remonstrance like the present object of debate, patriotically desire him not only to dissolve, but to annihilate his par-

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liaments. They may, in short, Sir, supplicate the sovereign to every thing rash, ridiculous, and destructive, and our freedom may be totally destroyed, because there is no law to punish, no authority to restrain, and no power whatever of withholding the licentiousness of petitioners. Is not every gentleman's indignation, Sir, roused at the absurdity, at the danger of such doctrine? Is it not subverting the principles of all order, all government; and overwhelming that very liberty with ruin, for which our public spirited declaimers profess so generous an attachment, so vehement an adoration?

Such, Sir, would be the consequences, especially in a state like ours, where the factious, and even the insignificant, are hourly raising commotions; such, I say, would be the consequences, if every thing in the form of a petition was sanctified from the examination of the laws; and on account of its form to be admitted as a constitutional act of propriety. On the other hand, supposing as I will suppose, that the subject, though now possessing the discretionary power of petitioning, is nevertheless bound to observe the sentiments of truth, and the dictates of decency, let me ask, what are the hardships he sustains by these sensible restrictions? Will any gentleman, however animated with the glorious fire of patriotism, say it is an oppression on the subject to make him just to his neighbour, and civil to his prince? Will any gentleman think himself aggrieved, because he is not allowed a right of traducing the innocent, and insulting his sovereign? If there is any gentleman hardy enough to call this a grievance, let him step forth, let him avow his sentiments openly, and lay a rational title to the praise of every patriot of all succeeding generations.

Having, therefore shewn, Sir, that our laws neither could, nor can allow any right to the subject which is manifestly subversive of the constitution; having shewn that the people themselves may be essentially injured by an unlimited power of petitioning, and proved that they cannot possibly receive any benefit from it, I shall now only observe with regard to the Seven Bishops in James the 2nd's time, that the case by no means applies: their petition was entirely upon the point of religion, was couched in terms the most respectful to the throne, and delivered with as much privacy as possible to the sovereign; whereas the present petition denies the authority of parliament, insults the person of the King, and is delivered with all the circumstances of tumultuous parade, that can be calculated to terrify the minds of the peaceable, and inflame the passions of every misguided member of the community.

Mr. *Jenkinson* enforced the arguments of the preceding speech.

Mr. *George Grenville*:

Sir; it is with infinite concern, while the minds of the people are agitated almost to madness, that I find gentlemen persevering in a succession of inflammatory measures, and hourly pouring oil on the flame of that discord, which already blazes but too fiercely in this unfortunate country. Every body that knows me, Sir, knows I am no friend either to Mr. Wilkes or his character; but when the question of his expulsion was agitated during the last session in this House, I declared myself against it. I foretold the consequences that it would necessarily produce, the distractions it would unavoidably create, and exhorted the advocates for that expulsion to sacrifice a private resentment, that actually dishonoured them, at the altar of public tranquillity. Had my advice been listened to, we should now have been in peace, our authority would not have been insulted, our proceedings would not have been despised, nor would the metropolis of the empire formally wait upon the sovereign to tell him we were the betrayers of the people.

The gentlemen, Sir, who then fought the battle of administration did not recollect, that while they were striving to punish the opposition, they were actually gratifying the spleen of their enemies. When an odious minister is at the head of public affairs, the nation, though injured by any act of his illegality, nevertheless enjoys a malignant resentment; it justifies their detestation of him; it renders him universally obnoxious; and, in the end, completes the destruction of his political character. I am well convinced, Sir, that the enemies of government, however they took fire at the resolutions of this House in voting Mr. Luttrell the member for Middlesex, nevertheless rejoiced at the opportunity which it gave them of attacking the premier in the most sensible part of his ministerial reputation; and I am to the full as much convinced, that they would now rejoice at the heaviest censure which we might pass upon the Remonstrance of

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the city of London; it is what they wish; it is what they are impatient for; it is what they ardently desire. Their whole strength consists in their being opposed, and contradictory as it may seem in terms, it is still undeniably true, that they absolutely gain a victory every time they suffer a defeat.

For this reason, Sir, if we are desirous of conquering the spirit of discord, which so unhappily subsists without doors, we must not combat it within. You may, indeed, proceed to censure, but will that procedure give peace to the kingdom: you may expel the persons principally concerned in presenting the Remonstrance, but—then you encrease the present confusion—you extend the grievance complained of by the county of Middlesex, into the city of London; you verify the prophesy of your enemies, and prove, what they have repeatedly foretold, that you will go on from violence to violence, and as you have given Middlesex a member, you will gradually give representatives to all the other freeholders of Great Britain.

But even, supposing, Sir, for argument sake, what I will not admit in fact, that we have a right to determine upon a petition from the subject to the throne, still, have we a right in this case to be parties and judges at the same time? Our dignity and our justice is arraigned in this petition; can we therefore be a proper jurisdiction to examine the conduct of the petitioners? Suppose, Sir, that the proceedings of the King's-bench were at any time complained of by a body of the people, and that an application was made to the crown for redress, would it be fair, would it be equitable, to send their petition to the very court, against which they had lodged the complaint? and would it be reasonable to bid the chief justice to decide upon the decency, or the legality of a composition, which reflected entirely upon himself. If, therefore, the City Remonstrance is contrary to law, let the laws punish it; let not a single branch of the legislature assume a power to set aside the solemn acts of the three branches; nor while it is exclaiming at the imputed illegality of others, set an example of deliberate illegality in itself. The best way, therefore, is to know nothing about this Remonstrance, to hear nothing about it in our public capacity. To bring it before us, is to open Pandora's box in this House; evil will spring out after evil: Hope herself will possibly fly away from the growing horror of the prospect, and all be phrenzy, blood, and desolation. If the Remonstrance is once brought before us, and we proceed to censure, there is no saying where the dreadful consequences may end; the people may have expressed themselves intemperately, but who will say they have not been fatally provoked? Let us, as the first cause of that provocation, bear a little with a fury excited by ourselves. It may, indeed, be spirited to vindicate the dignity of this House, but will it be prudent at this time? If we are really friends to our country, let us prove our friendship by healing her peace, not by rendering her distraction incurable. Let us nobly sacrifice our resentments to her preservation, instead of plunging her into a civil war. The question now is, not what is vigorous, but what is proper; not, how the authority of this House is to be supported, but how the whole nation is to be rescued from destruction. Ireland is now a scene of anarchy; America is entirely uproar; and is this a time to rise in arms against ourselves? No, Sir, this is an hour which calls for temper, not for rage, and in which an absurd exertion of severity to maintain our authority, will in all probability, rob us of the very constitution.

General *Conway:*

Sir; though I am as much an enemy to discord as the right hon. gentleman, and have upon every antecedent debate relative to the business now before us, been an equal advocate for moderation, yet on the present occasion, I rise to speak against lenity; to condemn the idea of temporizing; to declare that in my poor opinion the very gentleness, the very forbearance of this House, has been the principal source of all our late disturbances, and that mildness any longer, will be the only torch which can possibly set the constitution in flames.

I remember the time, Sir, when this House, instead of supposing that the maintenance of its own dignity was a dangerous measure, even in times infinitely more pregnant with danger than the present, looked upon a spirited exertion of their authority, to be not only the most noble, but the most politic measure they could take; they sensibly considered, that people will quickly be despised by others who are held in a contemptible light by themselves, and they therefore properly punished every disrespectful

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mention of their proceedings; nay, I have known particular periods in which their proceedings were too sacred to be mentioned even with respect; in which it was culpable to meddle with them at all, in writing or print, and in which, like eastern princes, they were kept at a distance to be viewed with reverence; but, Sir, this House, through an amiable weakness, having suffered their decisions to become the subjects of universal discussion, our indulgence has been abused, our goodness has been perverted into the consciousness of guilt, and our moderation set down as the certain result of timidity: because we would not punish, the enemies of order supposed that we dared not; hence in proportion to lenity on one hand, licentiousness grew audacious on the other; the public prints that formerly trembled at the bare apprehension of our resentment, now triumphed in despising it; the productions of the press hourly teemed with the grossest libels on our determinations; they openly invited their correspondents to revile us, and rendered sedition so courageous, that the livery of London, with the chief magistrate at their head, have now the temerity, not only to solicit our dissolution, but to tell the sovereign, in direct positive terms, that we are not the representatives of the people: yet, Sir, this is the season in which the right hon. gentleman says, that we must not exert our authority. This is the season, he tells us, in which moderation only can be of benefit, and in which, unless we are moderate, we shall drag inevitable ruin on the constitution. Sir, if we crouch under an outrage of this nature, the constitution is destroyed; the whole body of the people are at once deprived of their representatives; every act which has been passed since the time of our election must be utterly without force, universal confusion must ensue, and this miserable nation be left entirely to the mercy of the petitioners.

The right hon. gentleman, Sir, in his anxiety for the future, should not forget the dangers of the present hour. The people will rise against us, he apprehends, if we proceed with rigour, and the consequences will be a civil war. Sir, do we not encourage the people to an insurrection, if we tamely suffer the livery of London to tell us we are not the representatives of the nation? Do we not tacitly acknowledge in such a conduct, that no insult can wound, no violence provoke, no outrage can rouse us to a vindication of our own authority, or support of the laws? Besides, let me ask, Sir, if the moderation recommended by the right hon. gentleman, will not be more likely to increase the insolence, than to awake the gratitude of the seditious; more likely to produce fresh remonstrants, than to silence the clamour of old ones? Our lenity hitherto has gained but very little; hereafter it will gain us less; when we publicly acknowledge it imprudent to stand forth in defence of our own privileges, who will be induced either to fear, or to respect them? others will forsake us if we forsake ourselves; and the House of Commons must be inevitably torn from the constitution, inevitably annihilated, if we do not prove ourselves a House.

The right hon. gentleman tells us, that if the Remonstrance contains any thing illegal, there are legal methods to punish it. Sir, we have a legal authority to punish any insult offered to, or any libel published against ourselves. The law of the land grants us this authority, and supports the exercise of it. The law of the land, where a single individual of this House is insulted in his character as a member, justifies us in sending the offender to Newgate. I am sorry, Sir, that the right hon. gentleman, who has been so long a member, should forget this circumstance, or if he remembers it, should imagine that the same laws which guard the privilege of an individual member, should not be equally attentive to the privileges of the whole House. But it is wasting time to dwell upon a point so well established as this, especially as this House has no intention, no wish to exert a power repugnant to the laws. The sole question therefore now is, whether we are a House of Commons, or not; if we are, what hour can be more proper, what period so particularly necessary, to shew our authority, as when the livery of London have confidently told the sovereign, we are not? This becomes the more indispensably requisite, because the Remonstrance, though it denies, yet acknowledges our existence, and prays that we may be dissolved, though it will not admit us to be the representatives of the people. What is still more extraordinary, Sir, there is, if I mistake not, at this moment, a petition from the very city of London lying on our table, in which they humbly request our protection, and address us, as the knights, citizens, and burgesses in parliament assembled, though they have solemnly assured his

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Majesty that we are not the representatives of the kingdom. Let the matter therefore be seriously considered now. If we are a House, let us prove ourselves respectable: let us not make posterity blush at our timidity: let us not sacrifice the dignity of our constituents, who must share our disgrace: nor suffer the livery of London to trample on the united Commons of Great Britain. If we are not a House, and if the Remonstrance is a proper remonstrance, we can have no right to deliberate; our assembling must be illegal. But this, or never, is the time to vindicate the honour of parliament. If the livery of London are daring enough to censure this House, shall it be said that a British House of Commons has been afraid to censure the livery of London?—shall it be said that the livery of London, in the full face of day, has traduced us to the throne with impunity? I am ashamed, Sir, to find the question needful. Let us therefore rouse. Let us not die through an apprehension of dying, nor actually destroy the constitution for fear it should be destroyed.

Gentlemen have insisted much upon the arbitrary proceedings of this House, particularly in the Middlesex business, and the language of the Remonstrance complains not more of our perfidy than of our usurpation: it represents us as despotic over the rights, as unfaithful to the interest of the people, and tells us that while on the one hand we betray their welfare to government, we violate their freedom on the other, by the election of ourselves. Prejudice wilfully mistaken, always uses a language opposite to truth, and shuts its eyes instinctively at the appearance of conviction. That this is at present the case must strike the candour of every dispassionate heart; for I will confidently ask the boldest advocate of popularity if there ever was a period in which this House, so far from being arbitrary, was so mild, so placid, or so forbearing. Is the patience, Sir, with which we have heard our proceedings daily arraigned in every public print, an argument of our tyranny? Is the silence with which we have suffered our authority to be questioned a proof of our despotism? Or the triumphant insolence of the factious in still persevering to deny it, a mark of our flagitious severity? I am ashamed of such reasoning, and wonder how any honest man can urge it, who has heard gentlemen in this very House declare that they will refuse the payment of taxes, and nobly deny obedience to the laws of their country.

Gentlemen, however, when they cannot persuade us into a belief of our own injustice, go another way to work, and endeavour to operate, as I have already hinted, upon our fears, by threatening us with the resentment of the people. "The people," exclaim these casuists, "will never suffer this measure, the people will never allow that proceeding: what signifies our importance within doors, if without we are opposed by the voice of the people?" Gentlemen who argue in this manner do not recollect, that it is the identical, selfsame assembly thus contemned, thus defied, that constitutes the good people of England; that the people of England till our legal dissolution can possibly have no existence but within these walls; and that the voice which denies our authority without doors, hurls a treason against the majesty of the British people. The nation has chosen us as its agents for a term of years: during that term therefore we are virtually the nation. If we betray our trust, or prove unworthy of farther confidence, at the expiration of our term the nation may discard us indignantly; but it must nevertheless be answerable for our acts. It must be bound by the laws in which we have concurred, and acknowledge our decisions as its own, however repugnant to its inclination. Being then the representatives of the British people, let us spiritedly resolve upon maintaining the credit of our constituents. They have clothed us with authority, let us support that authority for their sake: to suffer a dishonour in ourselves, is to dishonour them, and it is better the city of London, or any other part of the British dominions, should undergo the heaviest censure, than to establish a precedent for disputing the authority of that assembly, which is the constitutional representative, the constitutional guardian of all.

The House then divided: the Noes went forth:

Tellers,

Yeas	Mr. Onslow – Sir Alex. Gilmour	271
Noes	Mr. Ald. Townsend Captain Phipps –	108

So it was resolved in the affirmative.

March 16. Lord North presented to the House, pursuant to their Address to his Majesty, a copy of the Address, Remon-

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strance, and Petition, of the Lord Mayor, Aldermen, and Livery, of the city of London, presented to the King March 14th 1770: and also, a copy of his Majesty's Answer. They are as follow:

"To the KING's most excellent Majesty.

"The humble ADDRESS, REMONSTRANCE, and PETITION, of the Lord Mayor, Aldermen, and Livery, of the City of London, in Common Hall assembled.

"May it please your Majesty; We have already in our Petition dutifully represented to your Majesty, the chief injuries we have sustained. We are unwilling to believe that your Majesty can slight the desires of your people, or be regardless of their affection, and deaf to their complaints: yet their complaints remain unanswered; their injuries are confirmed; and the only judge removable at the pleasure of the crown, has been dismissed from his high office, for defending in parliament the law and the constitution.

"We therefore venture once more to address ourselves to your Majesty, as to the father of your people; as to him who must be both able and willing to redress our grievances; and we repeat our application with the greater propriety, because we see the instruments of our wrongs, who have carried into execution the measures of which we complain, more particularly distinguished by your Majesty's royal bounty and favour.

"Under the same secret and malign influence, which through each successive administration has defeated every good, and suggested every bad intention, the majority of the House of Commons have deprived your people of their dearest rights.

"They have done a deed more ruinous in its consequences, than the levying of ship-money by Charles 1, or the dispensing power assumed by James 2; a deed which must vitiate all the future proceedings of this parliament; for the Acts of the legislature itself can no more be valid without a legal House of Commons, than without a legal prince upon the throne.

"Representatives of the people are essential to the making of laws; and there is a time when it is morally demonstrable, that men cease to be representatives: that time is now arrived: the present House of Commons do not represent the people.

"We owe to your Majesty an obedience, under the restrictions of the laws, for the calling and duration of parliaments: and your Majesty owes to us that our representation, free from the force of arms or corruption, should be preserved to us in parliament. It was for this we successfully struggled under James 2; for this we seated and have faithfully supported your Majesty's family on the throne. The people have been invariably uniform in their object, though the different mode of attack has called for a different defence.

"Under James 2, they complained, that the sitting of parliament was interrupted, because it was not corruptly subservient to his designs: we complain now, that the sitting of this parliament is not interrupted, because it is corruptly subservient to the designs of your Majesty's ministers. Had the parliament under James 2, been as submissive to his commands, as the parliament is at this day to the dictates of a minister, instead of clamours for its meeting, the nation would have rung, as now, with outcries for its dissolution.

"The forms of the constitution, like those of religion, were not established for the form's sake; but for the substance: and we call God and men to witness, that, as we do not owe our liberty to those nice and subtle distinctions, which places and pensions, and lucrative employments have invented; so neither will we be deprived of it by them: but as it was gained by the stern virtue of our ancestors, by the virtue of their descendants it shall be preserved.

"Since therefore, the misdeeds of your Majesty's ministers, in violating the freedom of election, and depraving the noble constitution of parliaments, are notorious, as well as subversive of the fundamental laws and liberties of this realm; and since your Majesty, both in honour and justice, is obliged inviolably to preserve them, according to the oath made to God and your subjects at your coronation, We, your Majesty's remonstrants, assure ourselves, that your Majesty will restore the constitutional government and quiet of your people, by dissolving this parliament, and removing those evil ministers for ever from your councils.

Signed by order, "JAMES HODGES."

His MAJESTY'S ANSWER.

"I shall always be ready to receive the requests, and to listen to the complaints of my subjects; but it gives me great concern to find, that any of them should have been so far misled, as to offer me an Address and Remonstrance, the contents of which I cannot but consider as disrespect-

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ful to me, injurious to my parliament, and irreconcilable to the principles of the constitution.

"I have ever made the law of the land the rule of my conduct, esteeming it my chief glory to reign over a free people: with this view I have always been careful, as well to execute faithfully the trust reposed in me, as to avoid even the appearance of invading any of those powers which the constitution has placed in other hands. It is only by persevering in such a conduct, that I can either discharge my own duty, or secure to my subjects the free enjoyment of those rights which my family were called to defend; and while I act upon these principles, I shall have a right to expect, and I am confident I shall continue to receive the steady and affectionate support of my people."

Ordered to be taken into consideration on the 19th.

March 19. The Remonstrance from the city of London, and his Majesty's Answer, being read, sir T. Clavering moved, "That to deny the legality of the present parliament, and to assert that the proceedings thereof are not valid, is highly unwarrantable, and has a manifest tendency to disturb the peace of the kingdom, by withdrawing his Majesty's subjects from their obedience to the laws of the realm." He was seconded by sir Edward Blackett.

Mr. Dowdeswell moved the previous question; he and other gentlemen in the opposition observing, that by the laws of the land, and resolutions of parliament, the right of the subject to petition was indubitable; that the Bill of Rights says expressly, that it is the right of the subject to petition, and that all prosecutions for petitioning are illegal; that on the 26th of February, 1701, the House of Commons resolved, that it was the right of the subject to petition for the calling, sitting, and dissolving of parliaments;* that this right of the people was clear, indisputable, and uncontroverted by any subsequent explanations, and therefore must be taken in its most extended sense.

To this the majority answered, That the right of petitioning was indeed indisputable; but that if such petition contained any matter false, injurious, or illegal, as treason, or prayed any thing illegal, such petition was highly punishable; and that it being in the form of a petition, did by no means free it from the prosecution or punishment such expressions would meet in any other paper.

To this it was answered, That it would be an absurdity to give a right to petition, without giving a right to express the cause of such petition; that in the courts of law, it is held to be no libel to use words and matter in the proceedings, which any where else would be false, scandalous, and punishable as such. Bills of Chancery are generally stuffed with as many lies as words, and yet they are not actionable; nay, it has been determined, that to distribute a printed libel at the door of the House of Commons, if such libel contains reasons against any Bill depending in the House, being the common form of procuring justice from the House, is not actionable in the courts of law; that the reason for such determination is obvious, as all avenues to obtain justice should be as open and free as possible; that this doctrine is equally applicable to petitions, which being a way of seeking redress for a grievance, ought, and legally is, equally free; and that any matter in such petition, if relevant to the prayer of such petition, is not punishable, though such matter should be false, provided, though, that the prayer of the petition be equally legal. On the contrary, to ask in petition for what cannot be granted legally, is punishable, or, under pretence of a petition, to introduce matter not relevant to such petition, if false, scandalous, or libellous, is equally so.

For the motion, it was urged, a part of this Remonstrance was not relevant (that part which says, the acts of this parliament are vitiated by the determination on the Middlesex election) to the petition, but a scandalous assertion contrary to law, and destructive of the peace of the kingdom, as it tended to introduce a disobedience to the laws, and sounded the alarm to treason and rebellion. That to remove this impression, it was absolutely necessary for parliament to vindicate their own authority, by coming to the proposed resolutions, that the people might not think, by our silence, that we concurred in this sentiment of the city's, and to quiet the minds of those who having procured acts under the present parliament, might be under apprehensions of their validity.

It was answered, That no one doubted the assertion to be false, but then it was grounded on true principles; that if the

* See vol. 5, p. 1340.

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House of Commons, instead of electing only one member into their House, should elect fifty, would any person in that case say, the parliament had not done an act that vitiated their existence? If a number of acts, illegal in themselves of that nature, would vitiate their existence, it was not an unwarrantable, though erroneous way of judging, that one act had not vitiated it; that for us to say, we were a parliament, was nugatory and ridiculous. If we are a parliament, the validity of our acts would shew it; if we are not a parliament, who will believe us because we say we are? Then to publish a manifesto against the city of London, was only assertion against assertion, which tended only to make us more cheap in the eyes of the people.

It was said on the part of administration, that one part of the Remonstrance (relating to lord Camden) was false, and not proved; that to desire his Majesty to dismiss his ministry, for such a measure, was unconstitutional, his Majesty, by the constitution, being entrusted with the sole appointment of his ministers, and that none but parliament had a right to desire their removal, as parliament alone is the grand inquest of the nation, entrusted with their liberties, and from parliament alone are derived all the liberties of the people.

This doctrine was very much abused by the minority, the very contrary being true, viz. that parliament received all its privileges from the people. They observed, that in high matters of state, it was not necessary that every assertion should be first proved, but that this had been the opinion of the protesting lords. That parliament had the right to desire the King to redress any grievances; but that this right was by no means confined to them. Parliaments might be corrupt, they might be influenced by the ministry. Supposing that the case, would the subject be debarred from representing their grievances, and desiring redress?

Some of the ministry said, that though the Bill of Rights gave a power to petition, yet, virtually, this power must be supposed to extend only to what is in the immediate power of the King to grant, and not to such high matters as dissolution of parliaments, which was a step the crown could not take, but by the advice of the privy council, and that no minister durst advise such a measure with safety to his head.

It was answered, That the right of petitioning by the Bill of Rights was unlimited, and derived from the old system of our ancestors, who (in parliament, the representing power of the kingdom) were used to petition the king for any law or regulation they found necessary; and if the king gave a favourable answer to the petition, it was the business of the judges to frame a law on such petition; that such right to the people had continued to the time of Charles 2, who passed some laws against tumultuous petitioning, which laws were even declaratory of the people's rights; but being further infringed by James 2, it became one of the articles against him, for which he was declared to have abdicated.

The ministry said, That an affair of this nature ought to be punished, to vindicate the honour of the King, which was hurt by being used in a disrespectful manner, by any of his subjects; that the constitution was impaired by the demand, and that the higher the body so offending, the greater ought to be the censure. Indeed, the observation in the Remonstrance could not be vindicated, which says this is no parliament, because it undoubtedly is, *de facto*, a parliament; but whether so, *de jure*, must be left to the decision of the next parliament. The right to petition is no right, if punishable; it is also of use to the crown, as it prevents rebellions, which would shew themselves in the first instance, if there was not immediate steps to be taken. James 2 punished the bishops for petitioning, for which reason the whole people, smothering their griefs, unanimously rebelled against him before he could be persuaded they were satisfied. The dignity of the crown is best preserved by the laws, and the respect due to it, by the rectitude and popularity of its measures. In the course of this debate,

Mr. *Dunning* spoke on the side of the minority. His speech, which continued near an hour and a half, was one of the finest pieces of argument and eloquence ever heard in the House. He said, that the House could proceed against a person for improper advice, which the courts of law could not.

Serjeant *Glynn* was of another opinion, and said, that if those who presented the Remonstrance were not punishable at common law, they were not criminal; and if not criminal, ought not to be censured.

Lord *Palmerston* observed, that the

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Remonstrance, though it might be called a corporate act in law, it could not in common sense be called an act of the great and commercial city of London.

Lord *Barrington* said, it was so far from being an act of the city of London, that it could not properly be said to be the act of the poor people to whom it was once read, but of a set of Catilines only, who had no view but to draw all men from law and allegiance.

Mr. *Beckford*, the lord mayor, was stung by this keen reproach, and to recriminate, said, that there were people out of the city, who were ready to cut throats, and had an army at hand for that purpose.

Mr. *Sawbridge* also felt himself wounded, and said, he knew of no conspirators but those who received the public revenues. To which it was replied, That to share the public revenue, had always hitherto appeared to be the great object of opposition, and thus the expressions of envy that involuntarily escaped the gentlemen in the present opposition, were sufficient evidences of the cause of their discontent, and the object of their pursuit.

At half past two in the morning, the House divided. The Noes went forth,

Tellers.

Yeas	Lord Strange Sir John Wrottesley	284.
Noes	Mr. Baker Mr. Whateley	127.

So it was resolved in the affirmative.

March 20. Sir Thomas Clavering moved an Address to the King on the Remonstrance. In this debate it was generally agreed, that the Remonstrance was expressed in improper terms; but it was said by the gentlemen in opposition, that no body of men was competent to pass a censure on those who accused them.

Mr. *Rigby* observed, that when the Remonstrance was agreed to, the word Petition was not inserted, but that somebody wiser than the rest, suggested the word as necessary to put it under shelter of the Bill of Rights; he also observed, that if the word Address had not been inserted as well as the word Petition, the paper would have received no answer.

After some farther debate, lord John Cavendish moved to adjourn, and the question being put the House divided. The Noes went forth.

Tellers.

Yeas	Mr. Nicholson Calvert Mr. Pulteney	94.
Noes	Mr. Burrell Mr. Dundas	248.

So it passed in the negative.

Then the main question being put, was agreed to.

March 21. The Address was reported and agreed to; and it was moved to desire a Conference with the Lords, to desire their concurrence. The objection taken to this was, That if the Lords should concur, it would preclude them from hearing any impeachment on that head, as they would not be competent judges in a case they had already decided. The ministry was very tender on that head, giving no determinate answer, whether an impeachment was intended or not.

Sir *George Saville* said, ironically, that he was surprized the objection should be made, though now we were as well taught our business as any hunter at the bar. We had begun by small leaps at the constitution, but, by a regular system, we had been drawn from lesser to greater; that now he questioned, whether standing or flying, there was any thing we durst not leap: that the House of Lords, if they concurred in the Address, would be so much better judges for our purpose; as who would not wish to have his cause tried by judges, of whose determination in our favour we had so good reason to expect!

The motion for the Conference was then agreed to.

Address of both Houses to the King on the City Remonstrance.] March 22. The Lords agreed to the Address, which was presented to the King, and is as follows:

"Most Gracious Sovereign;

"We, your Majesty's most dutiful and faithful subjects, the Lords spiritual and temporal, and Commons of Great Britain, in parliament assembled, having taken into consideration the Address lately presented to your Majesty, under the title of The humble Address, Remonstrance, and Petition of the lord mayor, aldermen, and livery of the city of London, in common hall assembled, together with the Answer which your Majesty was pleased to make to the same, think ourselves indispensably obliged upon this occasion to express to your Majesty the extreme concern and

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indignation which we feel, at finding that an application has been made to your Majesty in terms so little corresponding with that grateful and affectionate respect which your Majesty is so justly entitled to from all your subjects; at the same time aspersing and calumniating one of the branches of the legislature, and expressly denying the legality of the present parliament, and the validity of its proceedings.

"To present Petitions to the throne has at all times been the undoubted right of the subjects of this realm: the free enjoyment of that right was one of the many blessings restored by the Revolution, and continued to us in its fullest extent under the princes of your Majesty's illustrious House; and as we are duly sensible of its value and importance, it is with the deepest concern that we now see the exercise of it so grossly perverted by being applied to the purpose, not of preserving, but of overturning the constitution, and of propagating doctrines which, if generally adopted, must be fatal to the peace of the kingdom, and which tend to the subversion of all lawful authority.

"Your Majesty, we acknowledge with gratitude, has ever shewn the most tender regard to the rights of your people, not only in the exercise of your own power, but in your care to preserve from every degree of infringement or violation the powers intrusted to others. And we beg leave to return your Majesty our unfeigned thanks for the fresh proof you have now given us of your determination to persevere in your adherence to the principles of the constitution.

"Permit us also to assure your Majesty, that it is with the highest satisfaction we see your Majesty expressing so just a confidence in your people; in whatever unjustifiable excesses some few misguided persons may, in this instance, have been seduced to join, your Majesty's subjects in general are too sensible of what they owe both to your Majesty and to your illustrious family, ever to be capable of approaching your Majesty with any other sentiments than those of the most entire respect and affection; and they understand too well their own true interests to wish to loosen the bands of obedience to the laws and of due subordination to lawful authority; we are therefore fully persuaded that your Majesty's people, as well as your parliament, will reject with disdain every insidious suggestion of those ill-designing men, who are, in reality, undermining the public liberty under the specious pretence of zeal for its preservation; and that your Majesty's attention to maintain the liberties of your subjects unviolated, which you esteem your chief glory, will, upon every occasion, prove the sure means of strength to your Majesty, and secure to you that zealous and effectual support which none but a free people can bestow."

The King's Answer.] His Majesty returned this Answer:

"My Lords, and Gentlemen,

"I return you my thanks for this very loyal and dutiful Address. It is with great satisfaction that I receive from my parliament so grateful an acknowledgment of my tender regard for the rights of my subjects. Be assured that I shall continue to adhere to the true principles of our excellent constitution, from which I cannot deviate without justly forfeiting the affections of a free people."

*Debates in the Commons on Mr. Grenville's Bill for regulating the Trials of Controverted Elections.**] February 28.

Mr. *George Grenville*† rose and said:

Sir; it has been long a melancholy

* London Magazine—London Museum.

† "Besides abolishing that shameful mode of trial, in which, under the former judicature for deciding controverted elections, every principle of decency and justice were notoriously and openly prostituted, (from whence the younger part of the House were insensibly, but too successfully, induced to adopt the same licentious conduct in more serious matters, and in questions of higher importance to the public welfare—an evil, which by Mr. Grenville's Act is entirely done away) it cannot but be an object of the greatest satisfaction to every person, who is a friend to this constitution, to see young men of the first rank and consideration in the country, assiduously attending, for four, five, or six hours in a morning, to the hearing of counsel and examination of evidence, and with great pains investigating the real merits of the cause before them: and to know, that their decisions upon those questions are formed, after several days hearing, with the most pure and upright intentions to determine according to the rules of law and justice, is a prospect, that, in every light, cannot but be pleasing to all, who know how much the freedom of this constitution, and in that the future happiness of this country, depends upon the spirit and character of those who are hereafter to be called forth, either to fill the great offices of the state, to give advice to their sovereign in matters of

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fact in the proceedings of this House, that no regulation existed to shorten the time of deciding contested elections, and to stop the shameful manner in which both the petitioning candidate, and the person actually returned endeavour to establish their pretensions to a seat in this House.

Sir, instead of trusting to the merits of their respective causes, the principal dependence of both parties, is their private interest among us, and it is scandalously notorious, that we are as earnestly canvassed to attend in favour of the opposite sides, as if we were wholly self-elective, and not bound to act by the principles of justice, but the discretionary impulse of our own inclinations; nay, Sir, it is well known, that in every contested election many members of this House, who are ultimately to judge, in a kind of judicial capacity, between the competitors, enlist themselves as parties in the contention, and take upon themselves the partial management of the very business upon which they should determine with the strictest impartiality.

How often, for instance, Sir, while the merits of a contested election have been trying within these walls, have the benches been almost empty, during the whole examination; but the moment the question approached, how have you seen the members crowd eagerly to their seats, and then confidently pronounce upon a subject, on which they had not heard a syllable, but in private from the parties themselves! This is not all, Sir, we have frequently seen trials of strength upon some previous question between the friends of the sitting member, and the friends of the petitioner, and we have also frequently, I blush while I declare it, seen justice sacrificed to numbers, and oppression exalted, on the shoulders of a giddy majority, into the sacred chair of legislation. This is a grievance of an alarming magnitude, and I propose to offer a means of redress, on a future day, to the consideration of this House.

March 7. Mr. *George Grenville* said:

Sir; I took occasion some time ago to throw out my sentiments in this House, on the present very defective manner of terminating contested elections, which chiefly proceeds from the extraordinary number of judges, and the general countenance which private friendship, or party connexion receives from the members of this House, in opposition to the principles of equity. There is not a judicature in the world, Sir, so numerous as this, and the instances of partiality are not only so frequent in cases of electional dispute, but the crime of partiality is divided, as gentlemen imagine, into so many shares, that while they are encouraged by the force of example to oppose the sense of their conviction, they look upon their injustice to be diminished in proportion to their numbers, and each at last supposes his part of the guilt exceedingly inconsiderable.

For my part, however, Sir, I look upon the decision of a contested election, as an affair of the utmost importance; where the privileges, the birth-rights of the people are immediately at stake, it behoves every good subject to be cautious, and as in murder accessaries by the voice of law are pronounced principals, I hold all to be

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high import to the public welfare, or (in which they may be equally useful) to maintain such a conduct in parliament, as that, by their wisdom and prudence, and reputation with the people, they may preserve inviolate that free constitution which was established at the Revolution; and which, whilst it continues unimpaired by any illegal exertions of power on the part of the crown, or by any licentious abuses of liberty on the part of the people, is a blessing that Providence has never yet conferred on any other people, in any age, or in any country.—In a publication in 1789, of 'Extra-Official State Papers,' by William Knox, esq. late under secretary of state, vol. 2, p. 41, is the following account of part of a conversation, which the editor of that work had with Mr. Grenville, at Wootton, upon the subject of Mr. Grenville's returning into office.—'He told me, that he found his health and 'spirits very much declined; that he had given 'up all thoughts of office, and did not wish to 'take any active part in public business. And 'indeed, he continued, with a deep sigh, and 'putting his hand upon his side, I am no longer 'capable of serving the public—*My health and 'spirits are gone—The only thing I have any 'intention of doing, is to endeavour to give 'some check to the abominable prostitution of 'the House of Commons in elections, by voting 'for whoever has the support of the minister, 'which must end in the ruin of public liberty, 'if it be not checked.*' In pursuance of this resolution, Mr. Grenville, on the 7th of March, 1770, proposed his plan in a most able and convincing speech. The Bill received the royal assent upon the 12th of April, 1770; and Mr. Grenville died on the 13th of November following, with the satisfaction of having completed one of the noblest works, for the honour of the House of Commons, and the security of the constitution, that was ever devised by any minister or statesman." Hatsell's Precedents, vol. 2, p. 20.

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principals who wreak a parricide upon the constitution.

From the excessive number of judges in this House, Sir, upon cases of contested election, from the tediousness of many cases, and from the discretionary power of gentlemen, neither upon their oath, nor their honour, to decide as they are prompted by the bias of a secret inclination, we have for a long time beheld the suffrages of the people wantonly sported with, not only by ministers, but by the avowed defenders of public liberty. That the present mode of trial is not warranted by the antient usage of parliament, is well known to every member conversant with our history; for even at so recent a period as the Revolution, triers were particularly appointed to determine on the merit of petitions; and these triers generally consisted of the most illustrious personages in the upper House of parliament; but gradually, to give their decisions a greater air of solemnity, the whole House attended, though the triers were usually guided in their opinion by the law lords. In this House committees were constantly chosen to examine into elections; and in 1672, the chancellor, having claimed the right of determining contested elections, the Commons ordered a committee of two hundred for that purpose, and resolved that all who attended this committee should have voices. The establishment of committees has continued ever since; but during the time that the late Mr. Onslow presided in that chair, the admirable order with which he conducted business, as well as some irregularities which took place in the committees, induced such as wished for a candid trial to be heard at the bar of the House.

In the Bill, Sir, which I shall move to bring in for the removal of the grievance here submitted to your consideration, I shall as much as possible regulate my idea by the constitutional idea of juries. I shall move that when a petition comes before us, a day may be set apart for enquiring into its merits; that both parties shall have their witnesses ready against this day, and that on the appointed time, one hundred members at least being present, their names shall be written on small pieces of paper, rolled up, and deposited in six urns; when this is done, I propose that an officer, the clerk for example, shall alternately draw a name from each urn to the number of twenty-five, as a jury to try the cause; after these 25 names are drawn, the petitioner, and the sitting member shall each strike six from the number, and the remaining thirteen, with the addition of one, at the discretionary nomination of each party, in the whole fifteen, shall take an oath similar to the juryman's, examine witnesses upon oath, proceed within twenty-four hours to the determination of the case, and their determination shall be final, unless any doubt occurs about the rights of the constituents; if that should happen they must refer the matter to the opinion of the House; and to secure the attendance of one hundred members on the day set apart for electional decisions, I shall expressly provide that all other business may be postponed till the necessary number is convened for this particular purpose.

Besides these provisions, Sir, it will be proper to provide that no member above the age of sixty shall be liable to be drawn; that no member who is drawn upon one trial shall be compelled to serve on another; that the cause shall be publicly heard, but privately determined; that sheriffs or witnesses prevaricating, be amenable to the jurisdiction of this House, and if guilty of perjury be prosecuted by the common law: if one of the parliamentary jurors should fall sick, the trial may nevertheless continue while there are thirteen remaining to attend it; if any shall absent himself, he is to be punished by the House; the chairman is to be chosen by a majority of voices, and a majority of voices also is to determine between the sitting member and the petitioner.

Such, Sir, is the outline of the Bill by which I mean to remove the numberless evils resulting not only to the parties, but the community, in the present mode of deciding upon electional contests; to the good sense of the House I now submit my sentiments, and have only to move for leave to bring in a Bill for regulating the Proceedings of this House on controverted Elections.

Ordered, *nem. con.* That leave be given to bring in a Bill to regulate the Trials of controverted Elections, or returns of members to serve in parliament: and that Mr. Grenville, the marquis of Granby, Mr. Wedderburn, Mr. Whately, Mr. Dowdeswell, Mr. Solicitor General, Mr. Pownall, Mr. Thomas Townshend, jun. Mr. Burke, and Mr. Mackworth, do prepare, and bring in, the same. The Bill was accordingly brought in on the 12th.

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March 21. The House went into a committee upon the Bill. On reading the preamble,

Mr. *Rigby* commenced a general opposition to the principle of the Bill, and to the mode of the remedy proposed therein, reserving to himself his particular opposition to the regulations contained therein when the Bill should be read clause by clause. He joined issue with the proposers of the Bill, that the evil arising from the present mode of trying controverted elections required some remedy, and said, that this opinion was not now first started: many members in times past, on many occasions, had expressed rather their wish, than their hope, of finding some remedy for this evil; that he was of opinion that the remedy proposed by this Bill, would not prove effectual, was a very doubtful and dangerous experiment, so far as it was an essential alteration of the constitution of the House of Commons. That the House never did nor could delegate the whole of its power to a committee, by giving such committee power to come to a final determination, which he said was confessed to be the case, when the appointment of this new sort of committee was proposed to be made by act of parliament. That the House not having power to administer an oath, was also a reason why this must be done by act of parliament; that the select committees acting upon oath also required an act of parliament. That he not only disapproved the measure, which reduced the House to the necessity of altering its powers and proceedings in those judicial matters, in which it ought to be independent of the other branches of the legislature, but also as it brought on a necessity of doing it by the aid, and with the consent of those other branches. He thought the additional sanction of the oath, if men were now so abandoned as to have no tie upon their honour, would, like oaths of office, and Custom-house oaths, soon fall into mere matter of form, and lose all sanction, and so make bad worse.

Captain *Phipps*, with great judgment and propriety, in a manner that struck the committee, said, that as he was a young man and a young member, he should not upon a proposition of so great importance, give his own sentiments, but as he had formed his own opinion upon the sentiments of some of the greatest men that ever sat in that House, he would beg leave to read as a part of his speech the collection which he had made of those sentiments from the debates of parliament; and read some so well selected as made great impression.

Lord *Clare* then spoke to the great necessity of a remedy, and to the propriety of the remedy as proposed, but suggested some objections, which he said, he did not see how to obviate in some of the particular regulations. As for instance, in the Select Committee's reporting its determination as a final judgment as to the seat, while all their other resolutions were to be determined finally by the House. He did not see how the resolutions of the final determination could be separated from intermediate ones, which led to that determination.

Mr. *Rice* spoke strongly in favour of the Bill, but reserved himself upon the particular regulations, as each clause should be read.

Mr. *Grenville* said, that having before, on the proposing the Bill, spoken so fully to the necessity of some remedy, and on the committing the Bill, so particularly to the nature of this remedy proposed, he should not detain the committee with repetitions; but observed, that if this mode now proposed was not agreeable to the standing law of parliament, it was yet agreeable and conformable to the spirit and end of it. That if it was to be an objection to a Bill, that it proposed something new, and some alteration in the usage and established mode of proceeding, that then no remedial laws proposing alterations in modes which were at length found inconvenient, or proposing remedies to evils arising from established rules of court and law which no longer produced the end proposed, but on the contrary were productive of dangerous mischiefs, could ever be admitted. He shewed how this mode of a select committee was agreeable and conformable to the spirit of the constitution, to the rule of all our judicial proceedings, to the ancient usage of parliament, and to the establishment of the committee of privileges itself, which was originally a select committee, and always from the nature of its institution so meant to be; but from a bad deviation from this institution it was by degrees enlarged to greater and greater numbers, until it became ridiculous to consider it as a select committee, and a vote at length passed, that all who came to it should

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have voices, from which time might be dated the abuses every day more and more complained of. That he acknowledged that the proposal in this Bill, of making the determination of the committee final without the confirmation of the House, was new, and perhaps not to be found in any precedent of the proceedings of the House, yet the nature of the evil pointed out the necessity of this alteration; for this very reason, that the House at large might not have any thing to do in the decision, to which it always proceeded, in a manner so justly complained of to the shame of the House, by all without doors, and gave such scandal to the whole world. That there was no method of curing this evil but by removing the trial from a court that was thin to hear and full to judge; from a court, the members of which openly avowed that they decided not on the merits of justice, but as their engagements stood: and by deferring the hearing, and final judgment also, to a court consisting of a few members responsible for their conduct, and acting under the sanction of an oath. That this situation was exactly that of a jury; that whatever might be now the degree of profligacy and corruption in the world at large, yet juries, their proceedings and verdicts, still remained unimpeached. That in the same manner as this trying by a jury was by our law considered as trying by the whole county, so the hearing and determining by this select committee taken out of the House, was in like manner a trial by the whole House. He then spoke in general explanation of the several regulations proposed in the forming of this committee, and also those proposed for its proceedings, reserving to himself to speak particularly on each as the Bill was read clause by clause.

Mr. *Dyson* objected to the whole of the Bill as now offered, to its principle, and to the mode proposed by it, and therefore laid in his claim to make those objections more fully at the proper time, doing at present what he thought fair and candid, throwing out the ground of his objections, both in general and in particular. He objected first, that as the mode was novel, contrary to the usage of parliament, and inconsistent with the constitution thereof, the House by coming into such a proposal of establishing a committee, which was to decide independent of the judgment of the House, did not only divest itself of the powers essential to it and its jurisdiction, but that the doing it by act of parliament was still more dangerous. That this doing it by an act, so far as it had a tendency to render the House of Commons dependent on the other branches of the legislature in the exercise of its judicial powers, and particularly in matters of its own exclusive rights and privileges, had a direct tendency to destroy the balance of power between the several branches of parliament, and must so far obstruct the freedom and even existence of parliament; that therefore if he could see removed the insurmountable objections, which lay in the way of the mode of the proposal, he could yet never give his consent to the doing it by act of parliament. That he disapproved the several regulations proposed, some as impracticable, others as inefficient; he thought the various regulations, prescribed for the forming the committee as proposed in the Bill, intricate and impracticable, and gave his reasons in the particular discussion of each: he said further, that he thought that partiality might creep into this committee equally as well as in the House at large, especially by means of the two additional members to be nominated by the parties. He was apprehensive that some of these regulations might draw into dangerous consequences, which the House was no longer at liberty, or had the power to remedy, when it should once thus have delegated its judicial power to a court, to be formed by act of parliament.

Mr. *Dunning* answered the objections made to the intricacy and impracticability; he said that the most easy and natural movements or actions, when they came to be described in words, might appear perplexed and intricate, and would require such an unravelling detail of description as might make those appear impracticable which, it was notorious, were the common movements of every moment. He justified every proposed regulation from the analogy of our courts of law, and shewed that the improvements proposed in the Bill arose in like manner from the evil which called for the special remedy, exactly in the same manner as new regulations, and even alterations, had been made in the establishment of our courts, in the modes of trial, and even in the formation and frame of juries themselves. He shewed how the evil was special, that this proposal was a remedy specially suited to it, and that an act of parliament was the only way to establish it, and by establish-

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ing it, to establish the honour and dignity of the House, which had been already too much committed and hazarded, by resting on the authority of its own *ex-parte* resolutions.

Lord *North* laid in his claim to object to the whole of the Bill, if, upon report, those particular objections which then appeared to it, were not, or could not, be removed; but said, he should not oppose its going through the Committee.

The Bill was then read clause by clause, and many interlocutory debates arose thereon. The objections made by lord Clare, Mr. Rigby, and Mr. Dyson, to the power of challenging, for cause, were found well grounded, and admitted as such, and the clause standing in the Bill for that purpose was agreed to be left out. When that clause was read which enacts the appointment of the persons to be named by the petitioners or their agents, to be added to those who are chosen by lot,

Mr. *Pownall* rose and said, as some very particular exceptions had been taken, and some objections made to this part of the plan; and as he found himself more particularly concerned to explain and defend this part of the Bill, he begged the indulgence of the committee to permit him to say a few words on this point, it being now the proper time and place to obviate those objections. He said, when he considered this as establishing a mode of trial as similar to that by a jury, as could possibly be adopted in the case, one very material difference struck him, which might have created an essential defect in the measure. A jury taken from the body of the country (as this committee was taken from the body of the House), although it might consist of men uninformed in business, unknowing in points of law, were yet assisted by the judges learned in the law, who presided at trials for that very purpose. This committee might happen to be formed of young men and young members, who finding themselves unacquainted with such transactions, would be totally at a loss, and in consequence thereof, in the hands of clerks, agents, and lawyers. The committee might consist of members uninformed in the operation of the laws of election, and of the proceedings of this House thereupon. Nay, were they even such as had a general parliamentary knowledge in these matters, yet the peculiar local rights, and special process of special cases, might require a more particular and special acquaintance with the particular proceedings. The peculiar modes of proceedings, and local rights, in Scotland, would prove to be a subject of which the best practical member of parliament might be uninformed. The assistance therefore, in such cases, of persons having sufficient knowledge of the matter, must be a thing certainly to be wished by those who desired to see an equal judgment. Yet, as the committee stands formed by the lot, there may be no such assistance, they cannot refer the matter to nor consult the House, such appeal would totally defeat the whole measure, by throwing the judgment into the old, now reprobated, mode of decision. Our constitution admits not, indeed, the modes of proceeding used in the civil law; yet there are instances wherein it hath, in some measure, improved its own modes by copying from the wisdom of that. The defect in this very case is here proposed to be remedied by adopting a regulation of the civil law in cases of the like predicament. That law, where it might so happen that a judge should be unknowing, or uninformed of the particular laws by which the particular case was to be decided, called in the aid and assistance of an assessor learned in such law, which assessor, although especially appointed to that special case, was still equally guarded in every line of security which the law could prescribe or direct, against all predilection or prejudgment. In like manner, although the persons here nominated, are so nominated by the parties in the cause, yet they are not named as parties, but become undistinguished parts of the same jury, are bound by the same sanctions, are as such sworn to do impartial justice. Nay, the very naming of them in this manner sets them in a more responsible situation, pledges more strictly their honour, and places them more marked in the eyes of men. This marked situation creates stronger and more efficient motives to the justice and honour of their conduct; for so much more as they stand under the idea of the friends of this or that party, so much the more scrupulously (acting under oath) will they be found to form the line of their judgment. As therefore the nature of the case calls for such aid; as the examples of the wisest states give sanction to this mode of assessors; and as there cannot be any danger in such, rightly understood, I should hope all objections to this part would cease, and that this would be received and agreed to.

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When the Bill had advanced in reading to the clause that enacts, that the determination of the committee should be final,

Mr. *Dyson* made his objection to that clause, as containing matter which the House could never pass, as it could never so far divest itself of its essential constitutional jurisdiction, as to delegate its whole power without reference or controul, or even the power of confirmation being left to it. That this would not be establishing a committee, which was in the nature of it a dependent, partial, temporary creature, acting under the direction, and existing at the will of, the House which created it, for the very purpose of reporting to its constituent; but would be to establish a court unknown to our constitution. That a House of Parliament never did or could establish such a committee, and that the doing it by act of parliament was unconstitutional, so far as it broke in upon the rights and privileges which each branch of the legislature held, and ought to enjoy, of its own right.

Mr. *Pownall* said, that this subject, so far as the necessity of a reform was the ground of the Bill proposed, had been in his contemplation ever since the hearing of the first controverted election which he had attended. That he had considered the effect which does, and ever must, follow from our present manner of deciding on these matters. That he had considered the contrary effect arising from the mode of trial by jury. That even in the midst of the most luxurious, unprincipled, profligate age, even in the very crisis, in the delirium of the fever of party rage, juries had preserved their faith and honor. That he had observed that the Houses of Parliament themselves had, at times, fallen into something of this form, in the committees to which they had entrusted the power of enquiry, hearing, and determining. That, by combining his ideas of a jury, and of a committee formed on the model of a jury, he had conceived that regulations nearly similar to the present might have been framed on the old forsaken ground of trials of petitions; but was so far from thinking any such plan practicable, that he never mentioned it but to a few friends, merely as a speculation, and did not even hope ever to hear it mentioned without being laughed at, until the great parliamentary knowledge of the right hon. proposer of this Bill, supported by the authority and influence which his character, esteemed in all points, does give to every thing he proposes, brought his excellent plan forward; that it was brought forward with a degree of conviction that hath obviated and removed every objection that can be made to it, so that it had acquired, not only in this Committee, but in the House, a majority of friends who had approved and would support it. He said that he had intended to have spoken to the general plan, tenor, and purport of this proposal, by way of answer to the several objections made to it, but that the objections made to the principle of the Bill had been so fully answered by many so much abler advocates, that the objections made to the impracticableness of the regulations had been clearly removed upon the discussion of each clause; that he should have contented himself with giving a silent vote, had he not found the objection so much insisted on that the principle of this Bill was novel, and that the mode proposed, of forming by an act of the whole parliament a select committee of one of the houses of parliament, was unconstitutional, and of dangerous practice; that no house of parliament ever did, or could delegate the whole of its power in any particular case, especially not its judicial power, to a select committee; that such a committee never was bound by an oath, and never could decide finally, so as that the decision of such a committee was a final judgment. That such a method was novel, wholly unknown to the constitution of parliament.

He would now, as this was the proper time to answer that particular objection, which indeed went to the whole of the Bill, shew that the practice was not novel, nor unknown to parliament, by producing a precedent that could not be objected to, not from uncertain journals, but from an act of parliament itself, from the statutes lying on the table. He then referred to a statute in the reign of Edward 3, (some gentlemen in the Committee called to have it read) he said to save that trouble he would read an abstract of it, and then read from a paper in his hand. The Act I refer to is, of the 15th of Edward 3, chap. 1, for remedying delays of judgment. The preamble states the evil, the first clause appoints the select committee of Lords. The second, that they have power to order records, processes, judgments, and justices, before them. The third directs, that upon hearing they are to make accord and give judgment. The fourth orders, to remand the same back to the courts, ordering immediate execution

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of judgment. The fifth provides, that in special cases they are to refer the matter to parliament. Sixth, who by that authority shall be ordered to proceed to judgment forthwith. In the seventh clause, the commission appoints by name the committees; who, by the eighth clause, are required to take an oath faithfully to serve the king and his people.

By this precedent it appeared, that a house of parliament (the House of Lords, in case of their judicial jurisdiction) agreed to the forming by act of parliament a select committee, bound to try upon oath, and empowered to decide finally without report to the House, whose decision was a final judgment, which was ordered by said act to be carried into immediate execution. He hoped, after this clear and definitive precedent they should hear no more that the proposal in this Bill was novel and unknown to parliament, or contrary to the constitution of it. He said further, that although he did not lay great stress on the vague entries of imperfect accounts made in the old Journals, yet so far as they shewed that the manner in which committees appointed to examine and decide were not in all cases the same; and so far as there did appear in some cases something of a decision of committees, which was final, he would refer to them. He said that, in queen Elizabeth's time, he found, in the Journals, some committees appointed to examine and report; and there were also instances of committees appointed to hear parties, and to certify; to consider and to certify, and so on; that the first reported for the confirmation of the House. That if there be nothing in the Journals to shew that the decision of the second were final; yet there is nothing in the Journals which shews that the House considered the decision as wanting confirmation, but it stands in the Journals as final. He then concluded, by saying that, on this ground, the mode proposed by the Bill might be affirmed of ancient practice, was parliamentary, and had even the appearance of precedent in the House of Commons in its favour.

Objections were made to that part of the Bill wherein it was directed, that the committee should report to the House all resolutions, except that final one respecting the seat on the evidence of the election, to the House, as being a measure which would defeat the very end of the Bill, by throwing the judgment in the forming of it into the House. In order to obviate this difficulty, which was seen to be a real one, an amendment was proposed and agreed to, that the committee should, if they thought proper, report such resolutions therein referred to, to the House. There were also some objections made to the clause enforcing the attendance of the members, but it was shewn to be founded on practice. Some objections also were started, as to the effect which the trials consequent upon indictments for perjury, might have on the members of the committee; but it was made to appear that these objections arose from misapprehensions of the process of such trials, and so dropped. After the Bill was gone through, some clauses were added; one to ascertain the nature of the adjournments of the committee; another to render the Act temporary for seven years; as it was universally agreed it was best to introduce the matter as an experiment, which, if it did not succeed, the Act might expire of itself; if it did, it would then of course be continued.

March 30. The Bill was read a third time.

Mr. *Welbore Ellis* spoke against the whole Bill as not remedying the defects of the present mode of determining elections; that it would establish a new court of judicature, equally liable to abuse and inconveniences with the present; that the idea of reverting to the old parliamentary system of trials by a select committee, did not hold in this proposed plan as in the case referred to; for there, though the committee tried, the House determined; whereas in this Bill the determination of the committee was final; that the trial of controverted elections might be as well referred to the twelve judges, as to such an independent court (for I will not, I cannot call it a committee) as this Bill proposes, secluded by act of parliament from all communication with the House. That this proposed measure was very material—it was an essential alteration of the constitution of parliament—a total abrogation of one of the most important rights and jurisdictions of the House of Commons. That he doubted whether the representatives chosen under the possession of these rights, and having and using the exercise of the jurisdiction which they had always used in matters of disputed elections; he doubted, he said, whether they could give

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them up. That if ever there could be any ground for consulting their constituents, this did appear, in an eminent degree, a proper occasion. He hoped, that the proposition of a reference to our constituents, by giving time to know their sense during the recess of parliament, would be agreeable to the sense of those gentlemen, at least, who were of opinion upon every occasion, of deferring every thing to the discussion of the people at large, and thought that the House ought to be guided and governed by such opinions as they, when they pleased to interfere, should suggest to us. However, that a matter so novel, and differing so widely from the old, known, and settled modes of proceedings of parliament, so contrary to the rights and jurisdictions always claimed and exercised by the House, did at least require very serious consideration, and mature and thorough deliberation. He therefore moved that the consideration of this Bill be put off for two months.

Mr. *C. Fox* seconded the motion, in a lively academical manner, of stating and taking off arguments used in favour of the Bill.

Mr. *Dyson* supported the motion by a discussion of all the intricacies and perplexities which were in the Bill, and which he shewed would render the execution of it impracticable. He owned that something should be done to remedy the present evil; he really thought from the spirit and disposition of the House something very beneficial might be done; he therefore very sincerely wished that it might be taken up after such due and thorough examination, as might be made by gentlemen conversant in these matters during the recess of parliament. The various doubts and difficulties which the several debates upon this Bill had so truly stated, might in that manner be seriously and dispassionately considered: and when the House met again, gentlemen would come prepared for the entertainment of so proper a proposition; but that at present, it was brought in upon the accidental suggestion of an occasion in the course of a debate, at a time when the House was so much hurried with business, when gentlemen in the service of government were so much engaged in their attention to the progress of public business, and when the country gentlemen were so constantly employed in conducting the private business of their respective countries, that it was impossible the proposition could now have that attention given to it which it so well deserved; and therefore he must conclude, by saying, that he was very much of opinion with the right hon. gentleman who had moved to put it off for two months.

Mr. *Dunning* said, that this way of reasoning might have been very proper at the outset of this business; nay, that these arguments were then actually used, and were now only repeated and recapitulated, after they had been as repeatedly answered beyond all power of reply—that therefore when, in that stage of the business where he expected replication, he met only with repetitions—he should trust to that good sense and spirit which had shewn itself in the House on this occasion, and would not tire them with repeated refutations. That as to the time wished for by the hon. gentleman, if we were to defer this or any other matter, until he should get clear of all doubts and difficulties, we might stay to eternity; for that gentleman's doubts always increased in an equal pace with his reasonings, and his perplexities in the proportion of the exercise of his ingenuity. That what were at present only little entanglements in the thread of his arguments, which might at present be easily unravelled, would become, if you would but give him scope and time, Gordian knots before he had done with them. As therefore the matter had now been thoroughly discussed, and was very clear to all common sense, he trusted to the common sense of the House that it would see it carried into a law.

Lord *North* agreed that the situation of things called for some remedy; that in the main, he approved the remedy proposed, yet could not but greatly differ from many of the regulations suggested. He wished, however, to see his objections removed by the introduction of some modes of remedy clear of such difficulties. As he had confirmed objections to some of the regulations, so he had doubts as to many others, and most earnestly prayed for time to consider the matter coolly and maturely. He wished not to be forced into decision, which must be against the measure, when he sincerely wished to see it matured into something to which he could give his hearty concurrence; but that, under his present state of doubt and difficulty, he must be for deferring it. On the other

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hand, he wished to find himself in a degree of information, as to the propriety, practicability, and efficacy of the regulations proposed, such as would enable him, with satisfaction, and conformable to an informed conscience, to support the measure when it should be brought forward again; but at present he had not had time to consider the matter, nor the mode of remedy with that care it deserved, and which it would be dangerous not to give it; he therefore wished for a few months to consider it at leisure; but would neither say that he would then bring the matter forward himself, nor accede to any other of his friends bringing it forward, nor even give a hope that it should not be opposed again the next sessions; but concluded solely with saying, that for the present he must be against it as it now stood, and was therefore for the motion.

Sir *W. Bagott* declared himself a warm advocate for the Bill; and then took occasion, by way of apology for the seeming defection in him and his friends from ministry on this occasion, to state and explain the conduct of a particular description of country gentlemen, of the same connection as himself. In the doing of which, to distinguish, by very strong marking of party, his and their friends opposition in this case from that systematical opposition of gentlemen of a quite contrary description, he declared, that he and his friends kept their attention solely to measures, and not to men; that they desired to support the constitution only as settled at the Revolution in church and state—while they saw others aiming to wound the constitution through the sides of ministry. He then spoke to the good effect which this Bill must have: that it would not only correct proceedings within the House, but have an immediate remedial effect on the elections themselves. For when candidates once found that in trials of controverted elections, they must expect strict justice instead of support, they would neither in the election, nor upon a petition, expect those things to be done for them, which were an abomination and a scandal to parliament and to the nation. That the effect of all this would be that of restoring the representation to the natural interest of the country, the landed interest. That he thought the business of parliament might, very quietly, and perhaps to better purpose, be conducted without so much learning and so much oratory as the House abounded with at present; and that the interest of the nation might be as well and faithfully attended to, although there were not in the House men of such unbounded and unrealized interest. He then said, that he could not but suppose that there might be many defects in the regulations contained in the Bill, but that, the Bill once established, these would easily from time to time be remedied. That as to the reasons given for putting it off, they became arguments to him for wishing to have the Bill passed now, as the experiment of its operation might be better and safer tried in any accidental instance which might arise in the present parliament, than if left to be first applied at a general election. He concluded with begging his noble friend and relation not to oppose the passing of it at this time; but to let the experiment be fairly tried: that experiment of its effect, and not abstract reasoning and consideration, was the right trial of it. If it succeeded on the trial, then the end which the noble lord wished, by seeking time for the consideration, would be answered. If it did not, he would be on the surest grounds justified in the doubts and objections which he had to it.

Mr. *Burke* agreeing with the last speaker in his support of the Bill, arose to vindicate his friends and what he saw were the friends of the constitution, though gentlemen of a very different description from that gentleman and his friends, although by the late description given of them, a Tory was now the best species of Whig. That according to that gentleman's definition of a Tory, the friends of political liberty and religious toleration were Tories, &c. He then defended the Whigs of the opposition on the ground, that the necessity of strong measures, and of potent remedies, arose from the inveteracy and dangerous nature of the disease; and that if these gentlemen were real friends of the constitution, they would not abate, but would apply still more and more powerful caustics, until the disease was eradicated. He made an excellent distinction between faction and the opposition of party founded on principle. He then shewed that parliament was not meant to be a representation of the landed property only, but of the commercial interest chiefly, as appeared from the establishment of the boroughs, essential parts of that representation, existing in times earlier than any annals or history

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can give testimony of. That there never was any parliament from which the learned gentlemen of the long robe were excluded, except that one, infamous to a proverb, in the appellation which it acquired of Parliamentum Indoctum: he therefore congratulated the gentleman on this happy and honourable precedent in favour of his argument. He then compared the benefit derived to society from the unactuated load of landed abilities, which descended from generation to generation, in the useless members of the community, and that which derived from the acquirements, improvements, and activity of mental abilities, and shewed that either might be pernicious, and yet that both were of real benefit wherever and whenever they mixed, but always more so when acting in mutual aid of each other. Thus far in answer to the occasional remark of the gentleman who spoke before him. He then went into a general description and detailed discussion of the several parts of the Bill, and of its regulations, and ended with a support of the whole in form and principle.

Mr. Attorney General *De Grey* supported the motion made of adjournment, on law grounds, as to the operation of the Bill in practice; and going through the examination of the executive process of it, shewed that the various regulations and provisions proposed were full of perplexity and impracticability on one hand, and on the other, of uncertainty and danger. He concluded with enforcing a caution, that while we sought to avoid an evil, which, in its fullest extent, we had endured for many years without any great hurt or damage, we should not involve ourselves in dangers that might prove of the most pernicious consequences, and even destructive; it was better to endure those evils of which we knew the extent, than, in a sudden start of disgust and humoursome passion, "Fly to other which we knew not of."

Mr. *Wedderburn* rose, and taking up the line of reasoning used by the Attorney General, continued the quotation, and commenced his speech by saying,

> "And thus the native hue of res lution
> Is sicklied o'er with the pale cast of thought;
> And enterprises of great pith and moment,
> With this regard, their currents turn away,
> And lose the name of action."

Thank God, this pale cast of thought hath not sicklied o'er the present House: they see and have a right spirit in acknowledging the evils which exist; they dare to look to the remedy proposed; they see that it is enterprise of great pith and moment, and it will not lose the name of action.

Is this preaching to our fears the only resource which is left to the gentlemen who oppose this Bill? They acknowledge the dangers, they see the very brink of the precipice which crosses our present track, and had rather we should sit helpless and inactive, totally at a stop in all action, than that we should strike into any other path: they acknowledge that there are other paths, but wherever reason, justice, honor, point the way, there, in that very path, the most ingenious amongst them are employed to set bugbears and phantoms; not only of dangers that we know not of, but of dangers which do not, which cannot exist; of dangers which their ingenuity is at a loss even to describe.

He then turned to lord North and his friends, who were so engaged in the business of the state, and its concerns, as ministers, that they had not time to attend to the business of legislature, as members of parliament, and in a strain of irony apologized for the minister and his friends. He then described how effectually and industriously they had for several months past laboured for the honor of government and for the benefit of the public; that they had been engaged in the firmest and wisest councils, to prevent the preponderating of a balance which the ministers of the day before them had suffered to receive more than its due weight, by the acquisition of Corsica to the French; that they had been studying the grievances complained of by the people, in order to take them up in such manner as might redress them; that the cabinet had been incessantly labouring to form and establish a proper plan of government for the affairs of our colonies, and that the proper special secretary of state had in the mean while been planning and smoothing the way by preparing the temper of the Americans to obedience, and a consequential acquiescence in their plans. That the minister and his colleagues had in petto the wisest, the most extensive, and most effectual plan for the settlement of our East India affairs, both as to trade, revenue, territory, and sovereignty. That they had been settling the government of Ireland upon a basis not to be shaken; that they had employed that most exten-

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sive knowledge to the most effectual purpose, in forming alliances on the continent. He went on describing their indefatigable industry; and said, that when all this was considered, how could it be expected that they could have time to attend to other people's plans and motions in things which they never dreamt of. He thought therefore they were very excusable; but thought at the same time, that it was happy for the country, that there were other gentlemen who had considered the matter now brought forward, and was only sorry that whatever honor might derive from this measure, the minister of the present day, and his friends, could have no share in it, as they felt this and did disclaim all such share. He hoped they would not, from envy to others, who, God knows, have no other share but what pure honor gives, deprive them of the only reward they desired. As the House was pleased with the Bill, he hoped the minister would for once let them indulge their humour, especially as he must see that there would be some danger of a disgrace in crossing them.

Mr. *Peter Burrell* said, that if the motion might be permitted to take place, so that the consideration might be put off for the present, he would pledge himself to bring the matter forward next session. But this proposal met with a rejection on the first mention of it.

The House then divided on the motion of adjournment. The Yeas went forth.

Tellers.

Yeas	Mr. Onslow - - - Mr. Burrell - - -	123.
Noes	Mr. Thomas Townshend, jun. - - - Mr. Whately - - -	185.

So it passed in the negative. Then the Amendments made by the Committee to the Bill were agreed to by the House.

April 2. Mr. Grenville moved that the Bill do pass.

Lord *North* said, he did not intend to give any more opposition to the Bill, though he owned he did not like it; that perhaps the House would not thank him for this declaration, as it might appear to proceed from necessity, having been beat by so great a majority the day before.

Sir *William Bagott* looking on himself and the country gentlemen to have been violently traduced in a speech of Mr. Burke's the day before, made a long and vehement invective against him, calling him a Black Jesuit, educated at St. Omer's, fit to be secretary to an Inquisition for burning heretics.

Mr. *Burke* answered him well; and in his speech led on a sort of political creed, which he professed himself to follow; and in consequence of which, many other gentlemen delivered their creeds: secret influence was hinted at a good deal. Mr. Dowdeswell, Mr. Grenville, &c. disclaimed the being governed by it whilst in power, but owned they had felt the effects of it. Lord North declared, he would never yield to any such influence whilst he remained in power; others congratulated the House on this declaration.—The Bill was then passed.

April 5. The Bill was carried up to the Lords by Mr. Grenville, attended by one hundred members.

The Earl of *Chatham* supported the Bill, and passed some very elegant encomiums upon it. He then said, that as he had begun his life out of a court, he hoped he should end it out of a court. He had no view of interest. All he meant was to rouse his country to a just sense of the blessings of this constitution. Then he desired that the House might be summoned after the holidays, for he designed to bring in a Bill to reverse the proceedings of the House of Commons on the Middlesex election. He declared that his intention by this Bill was to give the people a strong and thorough sense of the great violation of the constitution, by those unjust and arbitrary proceedings.

Mr. Grenville's* Bill passed the Lords without opposition, and received the royal assent on the 12th.

Motion in the Commons respecting the Civil List.] April 2. The House resolved itself into a Committee on the State of the Nation.

Mr. *Dowdeswell* observed, that as the King had not in his Speech last year given any hopes that his expences would be bounded by his Civil List revenue, it was the duty parliament owed to its constituents, to desire some assurances of that

* For a Character of Mr. George Grenville, see Mr. Burke's celebrated Speech on American Taxation, April 19, 1774.

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nature; that there was reason to believe the annual expence vastly exceeded, and that the consequence of such excess must be debts incurred, and a fresh demand on parliament again to pay them; that it was very clear that the King had found 176,000*l.* in the late king's purse, which he had expended, as well as 515,000*l.* granted over and above the 800,000*l.* per annum, and that he had reason to believe the debt incurred since last session amounted to 140,000*l.* He therefore moved some Resolutions declaring those facts, saying, that on them he should move for an Address to his Majesty, that he would confine his expences within the bounds of his income. And accordingly he moved, "That an humble Address be presented to his Majesty, representing, in the most respectful and dutiful manner, that it appears to this House, that the expences on his Majesty's Civil List, from his accession to the 5th of January, 1769, have exceeded the income of all his Majesty's annual revenues applicable to the use of his Majesty's civil government, and the support and maintenance of his houshold and royal family, in the sum of 686,116*l.* 5*s.* 8*d.*; and that it appears also to this House, that the expences on his Majesty's Civil List, in the year ending 31st December, 1768, being the last year for which any account has been laid before this House, amounted to the sum of 899,077*l.* 1*s.* 3¾*d.* which greatly exceeds the income of all his Majesty's revenues applicable as aforesaid to the use of his Majesty's civil government, and the support and maintenance of his houshold and royal family; and to express, in the most humble manner, the opinion of this House, that the said expences ought to be confined within the income of his Majesty's said revenues; and humbly and earnestly to intreat his Majesty, that he will be graciously pleased to give directions, that such retrenchments be made in the said expences, as may reduce them within the income of his Majesty's said revenues; assuring his Majesty, that, as this House has, upon all occasions, given the most evident proofs of its zeal and affection for his Majesty, and particularly in the late provision for the payment of the debt on the Civil List, so we cannot better discharge the duty we owe to his Majesty, and give proof of the continuance of our zeal and affection for his person, his royal family, and his government, than by humbly offering this request to his Majesty, in order that his servants may be induced to practise that œconomy which will tend most to the honor and dignity of his Majesty's crown, the satisfaction of his own royal mind, and the content of his people; that we shall be always willing and ready to grant such supplies as may be wanted on all necessary occasions; but that we cannot but be anxious on the part of our constituents, to be relieved from the appearance of repeated demands, growing out of expences, for the continuance of which there does not appear to this House any necessity, and for the reduction of which, within the bounds of his Majesty's income, no assurance has been given."

Mr. *Grenville* seconded the motion, saying that it was practicable to reduce the expences: that he would give the minister proof of such a plan, either in public or private whenever he pleased, and that he had no intention in such a plan to diminish, in any respect, the King's personal expences, but on the contrary, should wish to see the dignity of the household better preserved than at present.

Lord *North* said, his Majesty had last year in his Speech given all the assurances he was advised to do, that he would endeavour as soon as possible to contract his expences, but that till pensions fell in, it would be impossible, without the highest injustice, to do it at present; that if such an Address was presented, the King's answer could be no other than his Speech contained last year; that it would be shewing a disrespect to his Majesty to desire publicly such a thing; that he therefore should move that the chairman of the committee should leave the chair, and the Committee be broke up; they had now existed three months, and no good consequences had followed; the longer continuance of it was quite useless.

They divided, and lord North's motion was carried by 208 to 75.

Motion in the Commons for the Pension List.] April 5. Sir *E. Astley* observed, that it was the duty of parliament, whenever the public money was apparently squandered to bad purposes, to make enquiry how it had been so squandered; that when so large a requisition as that made last year to pay the Civil List debts, was made on the House, and for which the House could get no accounts but such as were neither satisfactory nor intelligible, it became absolutely necessary to ask for further accounts: it was reported that,

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notwithstanding the promises of the minister, fresh pensions had been granted very lately; this he thought very blameable, if true; he did not mean to ask for long accounts, and would therefore only move, "That there be laid before this House an account of all grants and Pensions, and increased salaries, made since the commencement of this present parliament, and payable out of any part of his Majesty's revenues in Great Britain or Ireland, or any other part of his Majesty's dominions, distinguishing the times at which, and the persons to whom, such grants were made."

Mr. *Conolly* (also a member of the Irish parliament) seconded the motion. He observed, that Ireland was mentioned in the motion, and as, by the sudden prorogation of the Irish parliament, no measures could there be taken to make such necessary enquiry, he should promote its being made here; that the pensions on the Irish establishment had amounted, in the late king's time, to between 40 and 50,000*l.* a year, and were now increased to upwards of 70,000*l.*; that the King's ministers in Ireland had given a promise there that no pension should for the future be granted for lives or terms of years but on the utmost necessity, and that in consequence of this promise, the Irish had increased their army at a large expence, and yet the promise of granting no more pensions had been recently violated.

Lord *North* said there was no reason at present to call for this list of pensions; that he should not have objected if particular pensions had been pointed at, as he would venture to say, none had lately been granted which he could not defend; that the pension granted to his friend (Dyson) was no more than a decent provision for an old servant of the crown, who had long laboured in a painful and not profitable office—his private character unexceptionable. The other pension (Bradshaw's) was also granted to one whose merits richly deserved such recompence; that the Civil List being granted to his Majesty's use, it was not proper to demand any account of the expenditure of it, unless money had been demanded of parliament to pay any debts on it; and that the present motion was unprecedented and improper.

General *Conway* observed, that the present motion was by no means unprecedented, and that it was certainly a proper measure for parliament, who were the only proper power to enquire into the expenditure of the revenues of the crown, as no power but that of the House could correct the profuseness of the crown, and particularly in a part of that profuseness so essential to the well being of the nation as of pensions, which in all times had been applied to increase the power of the minister.

Many gentlemen spoke in this debate, and the other orders of the day being moved, the House divided. The Noes went forth,

Tellers.

Yeas	Mr. Onslow - - - Mr. Charles Fox - -	162
Noes	Mr. Seymour - - - Mr. Byng - - - -	104

So it was resolved in the affirmative. Sir E. Astley's motion was consequently lost.

Motion to repeal the American Tea-Duty Bill.] April 9. Mr. *Trecothick* made a motion for leave to bring in a Bill to repeal the American Duty on Tea. The Ministry disputed the propriety of this motion, as being contradictory to a well known rule of the House, namely, that any thing which has received a negative, shall not be brought on again the same sessions; they observed, that when a motion was made some time since to repeal the other American duties, an amendment had been proposed, by adding the words "and on tea;" that on this amendment, the measure had been fully debated, and resolved in the negative by a great majority; that this present motion was the same question in effect, as it tended to do in a Bill, what before was attempted in the amendment.

The Opposition allowed the rule, yet said this particular did not come under it; that the reason of the rule was plainly that it might not appear on the Journals; that the same question had received two different receptions in the same session: in this case, this could not appear, as it might be very improper to do that in the former Bill, which might now be very necessary; that if a negative put on an amendment hindered the subject of that amendment to be brought on in any other shape, it might be very easy to prevent almost any thing, by adding the matter of it to a Money Bill, and then the whole would be rejected; or, by rejecting the amendment, the matter be put an end to for the session: for instance, in the Bill

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for raising the Land-tax, suppose a member was to move an amendment, by inserting the words to the Bill, "and on malt;" or adding, "and to prevent mutiny," the House could never receive these amendments, they must be rejected; but would any one say, that the Malt-tax or Mutiny Bill could not be brought on that year; that a proposed amendment had not even the advantage of a previous question, as the House had resolved that a previous question could not be put on an amendment; that on particular measures, the House had even given up its own rule, by admitting very small variations; and that this was as important a question as any could happen to give it up in; that, to the province of New York alone, of ten ships which would have carried 300,000*l.* worth of merchandise, if the American duties had been repealed, three only had sailed with about 10,000*l.* worth of goods, and the other seven were going out in ballast; and it was to be feared the same would happen to the whole American trade.

Mr. *Beckford*, the lord mayor, said, that if the House were of opinion that the motion could not, consistent with their rules and orders, be then admitted, he hoped lord North would allow of a prorogation of the parliament till after the holidays, that the matter might then be taken into consideration. To which lord North sneeringly answered, he was very glad to find that a prorogation would content the hon. gentleman.

On the division, the question to go into the other orders of the day, proposed by lord Clare, was carried, 80 to 52.

Report of the Committee of the House of Commons on Sir John Fielding's Plan for preventing Burglaries and Robberies.] April 10. The House proceeded to take into consideration the Report which was made from the Committee, who were appointed to enquire into the several Burglaries and Robberies that of late have been committed in and about the cities of London and Westminster, and to consider of more effectual methods to prevent the same for the future, and to report their opinion, from time to time, to the House.

And the said REPORT was read; and is as follows;

Sir *John Fielding*, knt. being asked, What number of houses have been broke open in and about the cities of London and Westminster, and whether it is a growing evil? said, That all robberies, with the circumstances attending them, and particulars of goods stolen, are registered at his office, and from that register informations are grounded, and offenders are detected several years after the offences are committed; and he delivered in lists of houses broke, with computations of the goods stolen from Michaelmas 1766 to 14 March 1770, in half-yearly periods; by which it appeared, that from Michaelmas 1766 to Lady Day 1767, 13 houses had been broke open, and goods stolen to the value of 289*l.*; from Lady Day 1767 to Michaelmas 1767, 36 houses, value 627*l.*; from Michaelmas 1767 to Lady Day 1768, 52 houses, value 569*l.*; from Lady Day 1768 to Michaelmas 1768, 48 houses, value 1,332*l.*; from Michaelmas 1768 to Lady Day 1769, 35 houses, value 1,448*l.* 15*s.*; from Lady Day 1769 to Michaelmas 1769, 63 houses, value 1,616*l.* 0*s.* 6½*d.*; from Michaelmas 1769 to 14 March 1770, 104 houses, value 4,241*l.*: he further informed the Committee, that it is supposed the last 104 houses were broke open by a number of housebreakers, not exceeding twenty, and few of them more than 20 years of age, 16 or 17 of whom are in custody, with little probability of their being convicted: that the evil increases amazingly, and never was at so great a height as since last Michaelmas. Being asked what is the cause of this increase of housebreaking? he said, That felons formerly carried their goods to pawnbrokers, but by the present method of quick notice to pawnbrokers, silversmiths, and others, that plan is defeated, and the housebreakers now go to Jews, who melt the plate immediately, and destroy other things that might be evidence, which in burglary can be nothing but the goods, though in other cases the person may be sworn to: that they disguise jewels by knocking them out of the sockets, so that they cannot be sworn to; that the present gang of housebreakers are sons of unfortunate people, and of no trade; that they began when boys as pickpockets, but turned housebreakers when they grew up, in order to procure a greater income to supply their increased expences: and he informed the Committee, that for 20 years a footpad has not escaped; that highwaymen cannot escape, upon account of the early information given to the afore-

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said office, and the great number of prosecutors who always appear against them, which he thinks must in time put an end to that evil: he then said, he had detected several persons in Duke's Place with plate, and has offered a reward of five guineas for apprehending one person in the same place. Being asked, what he thought of the present method of watching the town? he said, The watch is insufficient; their duty too hard, and pay too small: that he has known serjeants in the guards employed as watchmen: that the watchmen are paid $8\frac{1}{2}d.$ per night in Saint Margaret's parish, and a gratuity of 2 guineas a year, out of which they find their own candle: that as they are paid monthly, they borrow their money of an usurer once a week: that in other parishes the watch are paid from 10*d.* to 1*s.* per night: that the watch in Westminster is in every parish under the direction of a separate commission, composed of persons who have served the offices of churchwarden and overseer: that commissioners of the respective parishes appoint the beats of their watchmen without conferring together, which leaves the frontiers of each parish in a confused state, for that, where one side of a street lies in one parish, and the other side in another parish, the watchmen of one side cannot lend any assistance to persons on the other side, other than as a private person, except in cases of felony.

James Sayer, esq. deputy high steward of Westminster, confirmed the above evidence, and added, That St. Margaret's parish has a select vestry, the majority of which is composed of tradesmen; that they will pay no more than $8\frac{1}{2}d.$ a night to their watchmen, and have no way of punishing them for neglect of duty than by dismissing them, which, in fact, is not a punishment, for they find it difficult to get men to serve in that office; and he further said, that their number is not sufficient.

Being asked the reason for changing the constables from being parochial to be constables for the whole city and liberty? he said, That before 29 Geo. 2, constables were parochial; that he apprehended the reason for the change was, that a constable could not execute any official act out of his parish, without being specially authorised so to do: he mentioned an instance of a constable's being killed when he was serving a warrant out of his parish: that the person who killed him was tried, and found guilty of manslaughter only, though he would have been guilty of murder, if it had happened in the parish to which the constable belonged.

Sir *John Fielding* being asked, what remedies he could suggest to prevent the above evils, he produced two Papers relating to constables, watchmen, and other officers; which were read to, and confirmed by, him; and are as follow;

"Watchmen too old—should be from 25 to 50—their beats too extensive—should not exceed 20 houses on each side of the way: watchmen too few—the sum raised for the watch too little, being only 4*d.* in the pound—should be sixpence.

"Ward officers to be chosen out of those inhabitants that have served the office of constable, and to have a good salary.

"One half of the constables to be discharged within the year, so that one-half remaining two years will be able to instruct the new officers; and the whole duty will be done well.

"If the new provisions for the watch can be established by the commissioners remaining where they are, it will save trouble, for then the money may be raised by them as it now is, and every parish may pay and clothe their own watchmen; so that the appointment, distribution, direction, wages, number, and punishment of the watch, may be in the magistrates, by a new commission, and the paying and clothing be in the present commissioners.

"The words 'A constable of the city 'and liberty of Westminster' to be placed over the constables doors; the words 'Ward Officer' over the ward officers doors:—Beadles by name, to be discharged, and the necessary part of the duty they now do, to be performed by the ward officers.

"That it would be right to confine the intended improvement and constables to Westminster only, as the watch in the adjoining parishes of Middlesex remain on the same footing as is originally settled by the statute of Winchester."

Second Paper.

1. "The watch of Westminster is extremely defective, the number ought to be increased, their pay augmented, and the whole direction of them put under one commission, and that commission should be magistrates of the city and liberty of Westminster; the watch should be attended by ward officers, and relieved in

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the night, a whole night's duty being too hard.

2. "The round houses should be capacious, no liquor should be sold in them; publicans should be punished for permitting watchmen to tipple during their duty; and watchmen should be particularly rewarded for diligence, and punished for neglect by the civil power.

3. "High constables should not quit their office at the end of three years: constables should be increased half the number only discharged annually: The constable of the night should be considered for his attendance on that duty, and punished for neglect.

4. "The power of raising money at present for the watch is too confined, it should be enlarged, raised by the present commissioners—the watchmen paid by them, but their number, direction, and appointment, be by the new commission of magistrates.

5. "Receivers of stolen goods, especially of those taken by burglary or highway robbery, should be made principals, with a power of mitigation in the judge."

James Sayer, esq. being again examined, approved of sir John Fielding's Plan, and added, That the beadles are an unnecessary set of men, advanced in years, and servants to the churchwardens and overseers—are 40 in number over the whole city and liberty; they have an allowance of 20*l.* per ann. a-piece, which they make up 30*l.*: That he apprehends, if the number was increased to 60, and the city and liberty divided into so many divisions, a beadle to each division, and the object of their duty to take up vagrants, they might be of great service: That if the beadle was to have 2*s.* for every vagrant he took up, and 4*s.* was given to any other person who should apprehend one, the one half to be deducted out of the beadle's salary of that district where the vagrant was apprehended, it would have a good effect.

Sir *John Fielding*, being again examined, said, He thought the name of beadle should be abolished, and that they should be called ward officers.

Mr. *S. Rainsforth*, high constable of Westminster, being examined, said, He had been in office 12 months: that he had visited the different night watch houses, in the city and liberty of Westminster, frequently from 12 to 3 in the morning; found many of the peace officers upon duty—some were not: that there is a general complaint of peace officers neglecting their duty; from which neglect it is owing, that the watchmen and beadles are not present; and this general neglect, he apprehends, is the reason why so many houses are robbed: that he has frequently found 7 or 8 watchmen together in an alehouse: he thinks that the high constable should visit the round house, in the night time, once a month at least, or oftener, if required; and agreed with sir John Fielding, as to the number and pay of the watchmen.

James Sayer, esq. being again examined, said, That constables are appointed under Acts 29 and 31 Geo. 2d, which Acts are in many articles defective: that 80 constables, which is the number limited, are not sufficient: that they are appointed by the leet jury, which has been attended with great partialities; for the leet jury being composed of the overseers of the several parishes of the preceding year, they protect each other from serving the office of constable: that in general opulent inhabitants are excused and young tradesmen returned; that if a rich man is now-and-then returned, he is generally got off by pleading age or infirmities: that deputies are generally hired men, and though they cannot be appointed, unless approved of by the deputy high steward, yet as it is impossible for him to get a true character of the person nominated, he finds many unfit persons are appointed, who, he is informed, make a trade of serving the office; for remedy of which, he proposed, that the number of constables should be increased to 120: he thinks the burthen of serving the office of constable should not lay wholly on the trading inhabitants, as it does by the late Act: that by common law, every person, able and fit, is liable to serve: that the fine for not serving the office should be enlarged from 8*l.* to 20*l.* which fine should be distributed among those that do serve: and he added, That 12 being obliged to attend daily during the session of parliament, as long as either House sits, the duty comes round to each individual every sixth day, eight being excepted, who may be sick or kept in reserve; during which attendance the constables must necessarily neglect their own business: with respect to the high constable, he said, it is an office of great burthen and trust: that by law, he, the witness, is obliged to appoint a substantial tradesman to that office; that the person appointed is not to continue in of-

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fice above three years, and is liable to a penalty of 20*l.* for refusing to serve, which penalty goes to the poor of the parish; upon which he observed, that the high constable should not be a tradesman, because his power enables him to oblige the keepers of public houses to deal with him, or those with whom he is concerned in his way of trade: that the penalty on persons refusing to serve the office should be increased; that the high constable should have a reward for his service; and that the constables of the night should have a reward also.

Mr. *Rainsforth* being again examined, said, he was of Mr. Sayer's opinion.

Sir *John Fielding* being again examined, said, That ballad-singers are a greater nuisance than beggars, because they give opportunity to pickpockets, by collecting people together: that the songs they sing are generally immoral and obscene; the people themselves capable of work, and of the lowest and most abandoned order of people; for remedy of which, he proposed, that all ballad-singers should be considered as vagrants, and be made liable to the same punishments, no person being a vagrant now but who comes within some one of the descriptions of vagrancy in the Vagrant Act: And the high constable, being again examined, informed the Committee, That he has often had warrants for taking up ballad-singers: that he has apprehended a great many; notwithstanding which, their numbers increase, and they are become a very great nuisance: that they have often been dispersed, but still continue the practice.

Sir *John Fielding*, being again examined, said, That the city of Westminster is a franchise under the dean and chapter of Westminster: that the common gaol thereof is called the Gate-house, to which offenders of every kind apprehended within the liberty of Westminster have been usually committed for some years back, to the number of 600 or 700 annually: that in this gaol there is little or no allowance or provision for the prisoners, but what arises from the charity of passengers, seldom amounting to more than 5 or 6 shillings a week; the greatest part of which is given to the beggar at the window for the day: that the said gaol appears, from experience of the magistrates, to be too small for the number, and too weak for the safe custody of prisoners: that to this gaol, persons in execution for debts recovered in the court of conscience are committed; and he said, he believed this is the only gaol in England where there is not some provision for poor and distressed prisoners; and he added, that when a magistrate commits a man to that gaol for an assault, he does not know but he commits him there to starve: for these reasons, as well upon the principles of humanity as of civil policy, this ought to be remedied; and that on account of the vast increase of inhabitants, property, and number of offenders, there ought to be in Westminster, a strong, capacious, and useful gaol, and there is no such thing at present: that the said gaol, called the Gate-house, is a very old building, subject to be repaired by the said dean and chapter, who appoint the gaoler: that the supposed original use of this gaol, was for the purposes of committing clerks convict; the commission of magistrates of Westminster is not later than Charles the 1st's reign: they began first to commit offenders to this gaol, rather by sufferance than by right; and he observed, that however proper it may have been for its original purposes, it is unequal to the present occasions, and as he apprehends, cannot be altered without a law: and he further informed the Committee, That the magistrates of Westminster have represented this mischief to the dean and chapter, who acknowledge it, are willing to pull it down, and to give a piece of ground in their royalty, in Tothill Fields, to build a new gaol upon, and to subject the same, with every thing thereunto belonging, to the magistrates of Westminster, under such regulations as the legislature shall think proper, provided a sum be granted by the public for building the same; and he added, that estimates have been made, by which it appears, that a very effectual gaol may be built for the sum of 2,500*l.* In order therefore to remedy the inconveniencies above mentioned, he proposed, that such gaol should be built and kept in repair out of the county rate, which he said may be done without injury to the county at large, for this reason, that there is but one rate at present for Middlesex and Westminster, near one third of which is paid by the latter since the increase of buildings there: that this proportion is much greater than the expences required by the Act for county rates would subject Westminster to; and he added, That the gaol called the House of Correction in Westminster is repaired by the magistrates of Westminster, and the expence is paid

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by virtue of their orders on the county treasurer; that the same thing, if allowed by parliament for the repair of the proposed new gaol, will answer the purpose, without separating the rate.

James Sayer, esq., concurred with sir John Fielding in every particular.

Sir *John Fielding*, being again examined, informed the Committee, That about 6 or 7 years ago the magistrates of Westminster had no other court house but a place at the bottom of the stairs, leading to the House of Commons, called Hell, to keep their sessions in: the increase of business and of offences in Westminster made it impracticable to carry on the business there: the nuisance was represented by the magistrates to the lord lieutenant, lord Northumberland, who said, he had then applied for redress; and told the chairman, that it could not be taken up by government then, but would be in future considered: in the mean time, at his own expence, amounting to 800*l.*, he directed the chairman to prepare a large house in King-street, Westminster, which was formerly a tavern, to be made proper for a court house, that the magistrates, for their sessions, the burgesses for their courts, the lieutenantcy for the militia, commissioners of sewers for the execution of their business, grand juries for the county of Middlesex, writs of enquiries for the sheriffs, and meeting of inhabitants for nominating their representatives, should use the said building; for all which purposes, it has been constantly, effectually, and conveniently used: that it is scarce possible for the above business to be transacted without it; and the establishment of it is as essential to the civil power as any thing that has been mentioned: that the purchase of the said building, and fitting it up, cost the duke of Northumberland near 4,000*l.*; and he added, that this building also might be kept in repair by the county rate, at an average of 30*l.* or 40*l.* a year.

James Sayer, esq. confirmed the foregoing evidence: and

Sir *John Fielding* said, He thinks the acting part of the magistrates in Westminster is in as good a state as it ever was, and more free from imputations or neglect of duty: that it would be useful to have some persons of rank and condition in the commission of the peace for Westminster, who would attend at the quarter sessions, where they would become acquainted with the conduct of the magistrates in general, give a dignity to the commission, support the acting magistrates on great occasions, and give encouragement to such of them as discharged their trust becoming the honour of the commission, and discountenance those who did not: and he added, that for the last two or three years, the magistrates of Westminster have gone through very painful duty, and have been very diligent in it; and having been sensible of the necessity of their attendance, have mutually agreed to attend at any time or place, upon the least notice from their chairman.

James Sayer, esq. admitted that the magistracy at present is composed in general of persons of character, and that justice is administered with activity, diligence, and skill; but alleged, that it has been otherwise formerly, and may be the case hereafter; and therefore he was of opinion, that a regulation in the magistracy of Westminster is necessary: that there should be a qualification of justices; that they should have a reward for acting, as the most part of their time will be devoted to the public service: that the fees to be taken by their clerks should be appropriated to some public service, such as a vagrant hospital; that there should be certain rotation offices established by law; that, as he apprehends, one such office might be sufficient, if properly regulated; that the rotation office should do all the business, except in emergent cases; and that the private offices of justices of the peace should be abolished, because it sometimes happens that a man committed for a notorious bailable offence, is carried to another justice, who bails him without knowing the enormity of his offence: and

Sir *John Fielding* said, That in criminal offences that nearly regard the public, it is impracticable to use a rotation office, as there are many things that are necessary to be kept secret; and though the whole of the circumstances must be known to the acting magistrate, yet they cannot be known by a fresh magistrate who attends in rotation. And he added, That the great number of brothels and irregular taverns, carried on without licence from the magistrates, are another great cause of robberies, burglaries, and other disorders; and also of neglect of watchmen and constables of the night in their respective duties: that these taverns are kept by persons of the most abandoned characters, such as bawds, thieves, receivers of stolen goods, and marshalsea court and sheriff's officers, who keep lock-up houses: the principal of

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these houses are situate in Covent Garden; about 30 in St. Mary le Strand; about 12 in St. Martin's, in the vicinity of Covent Garden; about 12 in St. Clement's; 5 or 6 at Charing Cross; and in Hedge-lane about 20: that there are many more dispersed in different parts of Westminster, in Goodman's-fields and Whitechapel, many of which are remarkably infamous, and are the cause of disorders of every kind, shelters for bullies to protect prostitutes, and for thieves; are a terror to the watchmen and peace officers of the night, a nuisance to the inhabitants in the neighbourhood, and difficult to be suppressed by prosecution, for want of evidence; and in short, pregnant with every other mischief to society: that any person desirous of gaining a livelihood by keeping a place of public entertainment, who is of good reputation, can obtain a licence with ease from the magistrates to keep such house, when a public house in any neighbourhood happens to be vacant that has been licensed before; the magistrates of Middlesex and Westminster, having long held it to be a rule essential to the public good, rather to diminish, than increase, the number of public houses: that persons of abandoned characters, by applying to the commissioners of the Stamp-office, may obtain a licence for selling wine; by virtue of such licences it is that the taverns above described are kept open; for the aforesaid commissioners are impowered by law to grant such licences to whom they shall think fit: that licences, for selling spirituous liquors by retail, are not granted by the commissioners of excise, unless the parties produce to them a licence under the hands and seals of two justices of the peace to sell ale: that magistrates cannot by law authorize any person to sell ale, without a certificate of such person's being of good fame, and sober life and conversation; so that producing this licence to the commissioners establishes their character with them, and takes away the necessity of any enquiry: for remedy of which, he proposed, that wine licences should be placed by law under the same restraints as the licences for selling spirituous liquors now are: this remedy, he apprehended, might probably reduce the revenue of wine licences; if confined to the bills of mortality, it would, in his opinion, diminish it no more than 400*l.* per ann. but if extended to Portsmouth, Plymouth, Chatham, and other dock yards, it may lessen it 200*l.* more: he added, that he thinks it more necessary to correct the evil in those parts, as it has a direct tendency to corrupt and destroy the very vitals of the constitution, the lives of the useful seamen, who, by means of these houses, become the objects of plunder as long as they have any money, and are induced to become robbers when they have none: and he informed the committee, that there is another great evil which is the cause of these disorders, namely, the immense number of common prostitutes, who mostly from necessity infest the streets of the city and liberty of Westminster, and parts adjacent, attended by common soldiers, and other bullies, to protect them from the civil power: these prostitutes, when they have secured the unwary customers, lead them to some of the aforesaid taverns, from whence they seldom escape without being robbed: the cause of this evil, as he apprehends, is the great difficulty, as the law now stands, to punish those offenders, they being, as common prostitutes, scarce, if at all, within the description of any statute now in being: and he added, that this subjects watchmen, round-house keepers, constables, and even the magistrates themselves, to prosecutions from low attorneys: that the remedy, in his opinion, should be to declare, that persons walking or plying in the said streets for lewd purposes after the watch is set, standing at the doors, or appearing at the windows of such taverns, in an indecent manner, for lewd purposes, shall be considered as vagrants, and punished as such: that as to the circumstance of street beggars, it never came to his knowledge that they are under contribution to the beadles.

Upon the whole of which matter, the Committee came to the following Resolutions:

Resolved, 1. "That since the 29th of September last, 104 houses within the cities of London, Westminster, and the parts adjacent, have been broke open, and plate, jewels, and other goods, stolen therefrom, to the amount of 4,241*l.*; that the said evil hath increased very much of late years, and is likely still to increase, unless some effectual provision be made to prevent it.

2. "That to put a stop to the said evil, the number of constables in the city and liberty of Westminster, St. Martin's le Grand, and such parts of the duchy of Lancaster as are within the said liberty, should be increased; and that all persons being householders within the same, other

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than the members of both houses of parliament, acting justices of the peace, and certain other officers and persons, should be made liable to serve as constables, or pay a penalty for refusing to serve the said office; and that a new mode of appointing and discharging them should be adopted.

3. "That the number of watchmen in the said places should be increased, more able persons appointed, their pay augmented, another method adopted for appointing them; that their beats, or districts, should be less extensive; their duty be made general; and that they should be put under one general direction.

4. "That the beadles in many parishes are not at present of sufficient service; that they should, for the future, be employed under another name, and under some general direction, as regulators of the watchmen, and to take up vagrants and other disorderly persons, in their respective wards; and that their number should be increased.

5. "That the duty of constables and watchmen, and of beadles under another name, should be regulated, with proper encouragements for doing their duty, and penalties for their neglect of it.

6. "That the receiving stolen goods, particularly gold and silver plate and jewels, should be made more penal, and the receivers of them, particularly of those taken by burglary or highway robbery, be made principals.

7. "That provision should be made for transporting criminals, which now are transported to America, to the coast of Africa, and to the East Indies.

8. "That common Ballad Singers, by collecting great numbers of people about them, give opportunities for picking pockets, and are a great nuisance; and that some effectual provision should be made for suppressing them.

9. "That the present unrestrained method of granting licences to sell wine, in and about the city and liberty of Westminster, gives an opportunity to persons of the most abandoned characters, to open houses for the retailing of wine to be drank in the said houses as taverns, which are frequented by every species of disorderly persons, and is a great cause of robberies and other disorders; and that the said method should be restrained.

10. "That the house in King-street, Westminster, called Guildhall, which is now the property of his grace the duke of Northumberland, and was some years ago fitted up by him at his own expence, hath been of great benefit in the holding the sessions for the said city and liberty, and for doing other essential public business regarding the same, and is absolutely necessary for those purposes.

11. "That the prison, called the Gatehouse, in the city of Westminster, to which a great number of criminals and debtors are committed, is too small, and totally unfit for the purposes of a common gaol in the present increased state of the said city, and the liberty thereof; and that there is no certain allowance for the maintenance of the prisoners committed thereto.

12. "That a strong and capacious gaol for the city and liberty of Westminster, should be built in another place, and some provision be made for the maintenance of the prisoners which are or shall be committed to the Gate-house, and to the said new gaol, when built.

13. "That larger and more convenient round houses should be provided in the said city and liberty of Westminster, and in Saint Martin's le Grand, and that part of the duchy of Lancaster, which is within the said liberty; and that no liquor should be sold therein."

Several gentlemen spoke against this increasing our capital penal laws, already much too bloody. The receiver was indeed as bad, or perhaps worse than the thief, yet it should be considered, whether the present laws were not too cruel on the latter; and whether it would not be first better to determine, Whether it would not be a better step to reduce this punishment, than to increase that of the receivers? However, on the division, it was agreed to by 47 to 19.

Sir G. Saville spoke well upon the subject, he wished for a committee upon this head, who should revise all the penal statutes, and reduce them into a regular system, in which the punishments should be more adequate to the crimes.

To the Resolution that the transported convicts should be sent to Africa or the East Indies, instead of North America, several objections were made; first, that sending them to these climates was, in other words, ordering them to death: 2dly, that, unless the African and East India companies were ordered to take them, and pay for their passage, it would be impossible to get them there, as, at present, the expence of sending them was paid by

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the convicts themselves; and in case the convict could not pay it, the master of the ship who carried them, had a right, by the laws of the plantations, to sell them for the time the law condemned them. Whereas it was not worth the while of the India company to purchase them at so high a rate, unless for soldiers, and in that case they were at present permitted to take them: 3rdly, if sent to Africa, it was to be feared, that by filling those forts with inhabitants of this nature, great danger might accrue to those settlements, as the neighbouring negroes, always ready to destroy those forts, and being joined by these desperadoes, might seize them, and which at present they were with difficulty restrained from. For these reasons, this resolution was postponed. The Resolution, that ballad-singers were a great cause of the increase of robbers, by drawing crowds about them of idle people, to the encouragement of pickpockets, &c. was so ridiculous, that the Clerk could not read it for laughing; indeed the whole House joined him, and after some droll defence of them, as itinerant Muses, &c. the Resolution was postponed.

*Debate in the Commons on the sudden Prorogation of the Irish Parliament.**] May 3. The Hon. *Boyle Walsingham* rose and said: †

Sir; as it is the duty of this House, no less than it is the interest of the British empire, to keep a watchful eye on the proceedings of government even in the most distant provinces under our dominion, it cannot be improper in the present deplorable situation of Ireland, to animadvert upon the conduct of the ministry, to examine the sources of the universal discontent which now unhappily prevails throughout our sister kingdom, and renders administration as detestable to the people of that country, as they are despicable to the inhabitants of this.

It is notoriously known, Sir, however Ireland may be ridiculed by the inconsiderate, or misrepresented by the malevolent, that there is no part of the British territories more eminent for its loyalty, or more conspicuous for its affection to the crown of these realms; injustice after injustice, tyranny after tyranny has she peaceably put up with from sentiments of attachment to the people of Great Britain, and suffered, even in the dawnings of prosperity, her little treasures to be torn from her, contrary to every idea of constitutional law, because she imagined the violence might be beneficial to England.

The merit of the Irish nation, Sir, was not however confined to the toleration of oppression in the ministers of this country, but to a cheerful acquiescence under it; it was not from a want of spirit, or a want of understanding, from a want of courage to resent, or of intelligence to perceive the injuries offered them, that

* From the London Magazine.

† "Some late transactions in Ireland having thrown that country into a state of general disorder and discontent, occasioned a proposal on this side for a parliamentary enquiry into the causes and nature of them. The persons who held power for many years there thought the constant and unusual residence of the Lord Lieutenant was intended solely for the destruction of their power and influence. A strong opposition was prepared; but nothing appeared on the meeting of the new parliament (Oct. 17, 1769) but what promised harmony and good humour. The Houses seemed to vie with each other in their expressions of duty and gratitude to the throne, and of respect and regard to the Lord Lieutenant. This season of sunshine was judged to be the proper time for the making of another experiment to carry into execution the Bill for the Augmentation of the forces, which had failed of success at the breaking up of the last parliament.

"A message was accordingly sent, recommending this measure in the strongest terms from the throne. This message likewise contained a promise from the throne, that, if the augmentation took place, a number of effective troops, not less than 12,000 men, officers included, should at all times, except in cases of invasion or rebellion in Great Britain, be kept within the kingdom for its better defence.

"The proposed Augmentation was from 12,000, the former establishment, to 15,245 men, officers included: the strictest œconomy was promised to be observed in this service. Such was the favourable disposition of the majority at this time to government, or such their sense of the necessity of the measure towards the common defence, that notwithstanding a strong opposition within, and its being rather unpopular without doors, the Augmentation Bill was carried through, and passed in a very few days.

"This apparent union of sentiments, good humour, and harmony, between the governor and governed was soon interrupted. A Money Bill, which had originated and been framed in the privy-council, was brought to the House of Commons; a measure, which, though in strictness legal, had been always a matter of violent altercation at the beginning of every parliament, at which time only it was used, in order to keep up a right claimed by the council

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the inhabitants of that kingdom quietly endured the despotism of an English administration. No, Sir, their intrepidity is universally known, their perception is universally acknowledged; and while we behold them with pity, we cannot but consider them with admiration.

To justify the truth of what I have now advanced, suffer me to remark, Sir, that if the Irish were not naturally attached to this country, they have had of late sufficient encouragement to oppose the inroads of British ministers upon their property, and to contend at least for a concurrence in the distribution of their money. They have seen the Americans, a people much younger, and much more obliged, do this with the greatest success; they have seen British acts of parliament instituted for the express purpose of raising a revenue in the colonies, not only disobeyed, but they have seen our statesmen tremblingly solicitous for a repeal of these acts, and beheld them entering into the most dastardly concessions, to purchase a pardon from America. Yet though they have seen all this, they have neither denied our authority, nor opposed the execution of our ordinances; they have even without an act of parliament submitted to the annual payment of almost 100,000*l.* in pensions, and the moment government condescended to apply for any new grants, they have considered upon the properest mode of compliance, and manifested a pleasure in assisting even the notorious prodigality of government.

Having constantly acted in this affectionate manner to Great Britain, it might be naturally expected, that their generosity would have shamed our ministers into some little degree of kindness and consideration. But kindness and consideration

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under an act of Henry 7, called Poyning's Law, by which no bills are to pass in Ireland which have not been first certified from the privy-council there. The Bill was accordingly rejected; and in the vote for the rejection, the reason assigned was, its not having originated in the House of Commons. This objection did not impede the national supply; another Money Bill was passed in the usual form, in the most liberal manner, and with the greatest unanimity.

"The cordiality and unanimity shewn upon this occasion, by which they trusted solely to the honour of government, and provided fully for all its necessities, before they proceeded to any part of the national business, greatly, as they said, enhanced the merit of the act. The rejected Bill provided only for the expenditure of three months, the present for the expences of two years, and the supply granted amounted to 2,168,681*l.* These two great points of government being obtained, in the augmentation of the army and the grant of the supplies, it was then thought the proper time to shew a resentment of the rejection of the Money Bill; an affront which had been (prudently, as was said by one side; meanly and fraudulently by the other) dissembled, until government was got on solid ground.

"The Lord Lieutenant, in a speech which he made to both Houses, after the greatest acknowledgments for the liberality with which they had so effectually supported government, suddenly changed his style, and condemned, in the strongest terms, the rejection of the privy-council Money Bill in the House of Commons, which he represented to be intrenching upon the rights of the crown, and entered a formal protest in the House of Lords against that act of the House of Commons; and to preclude all debate upon the subject, or the possibility of passing resolutions against this measure, as suddenly prorogued the parliament to a long day.

"Some notice of this design having been received before it was put in execution, a motion had been made in the House of Lords a few days before, that directions should be given to the Speaker not to suffer any protest of any persons whatsoever to be entered in the Journals, who was not a lord of parliament, and a member of that House, and which was not relative to some business that had been previously before the House, and wherein the protesting lord had taken part with the minority, either in person or by proxy. This question being over-ruled by a great majority, a strong protest was entered by the minority, which attempted to shew that the only two cases in point, which were those of the earl of Strafford and lord Sidney, were either transacted in such times, or attended with such circumstances, as totally voided their being drawn into precedent, and that every such act was contrary to the rights and derogatory to the dignity of the Peers. The House of Commons, before their breaking up, forbid the Lord Lieutenant's speech from being entered on their Journals.

"In this manner were the sanguine hopes blasted which had been formed upon the first meeting of the first limited parliament. No business had passed but a compliance with the requisitions of government; all the national business was undone; the temporary laws which are renewed or altered at every sessions, whether relative to agriculture, to trade, to the supplying of the capital with provisions, to the preservation of the public security, or the support of the public charities, were all expired. The consternation, distress, and discontent that followed, were great, and the whole kingdom was in a state of universal confusion and disorder." Annual Register.

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do not seem the characteristics of our present ministers. For, Sir, though they lately received a large supply from the Irish parliament for the purposes of a military augmentation in that kingdom—though they requested this supply in a time of profound peace, and thought it perfectly constitutional to receive it from the representatives of the people; the money was no sooner received, than they denied the right of the Commons to grant it, and insisted that power of originating Money Bills belonged entirely to the privy council. However, Sir, to argue with them on their own principles, the government surely had not a right to take the money from parliament, if parliament had not a right to give it; and they should either refuse the supply, or acquiesce in the legality of the grant. The more we consider the conduct of administration in this respect, the more we shall find it perplexed, inconsistent, and tyrannical. The lord lieutenant having obtained the money, returns thanks to the two Houses for their liberality, and after he has politely complimented their munificence, he enters a protest upon the Journals of the Lords, and sensibly informs the whole world that they were not authorized to exert it. What is this, Sir, but adding insult to oppression, but laughing at the idea of all order, and smiling while they stab the essence of all liberty to the heart?

Sir, the consequences of this proceeding were such as might be expected; a generous, a spirited people could not bear to be reproached with their very virtues, they therefore prepared to make a vigorous effort in defence of their constitutional rights, but the chief governor took speedy care to prevent the possibility of parliamentary expostulation, by proroguing both Houses to a distant day, and branding them with a public stigma for complying with the wishes of government. Indeed, a compliance with the wishes of such a government might in the eyes of reasonable men seem to merit some mark of the grossest obloquy. The Irish, however, are more sinned against than sinning; the concessions they made to administration were in fact so many proofs of their regard for this kingdom, and they would have long since shewn a just resentment against the ministry, had they not been apprehensive that such a measure might be conceived a diminution in their attachment to the people of England.

What the Irish have declined doing from this generous principle, it now becomes our duty to perform; the state of that nation is deplorable beyond belief, and since the unexampled prorogation of its parliament, which contributed so liberally to the necessities of government, several temporary laws have expired; particularly the act for assigning judgments, by which only, the Roman Catholics could obtain landed security for their money: the tax upon hawkers and pedlars, which was devoted to the maintenance of the incorporated society for building Protestant charter-schools, has also ceased; and a sum of near 3,000*l.* allowed for public works of immediate utility, in consequence of the prorogation, remains unappropriated in the treasury. Besides these, Sir, many salutary acts relative to the late insurrections, and the tillage of the kingdom have expired, so that without the speedy intervention of this House, there is no saying where the distresses of our Irish fellow subjects may end. I therefore move, "That an humble Address be presented to his Majesty, that he will be graciously pleased to give directions, that there be laid before this House, a copy of all Instructions given to the Lord Lieutenant of the kingdom of Ireland, relative to the late sudden prorogation of the Irish parliament, at a time when affairs of the greatest national importance to that kingdom were depending in the said parliament; together with the Papers on which the said Instructions were founded, and his Answers thereto."

The Hon. *Constantine Phipps* seconded the motion.

Mr. *George Grenville*:

Sir; I am so perfectly satisfied with the expediency of the motion at present before the Chair, that I shall even exceed it, by moving likewise for "A Copy of a Message of the 16th of November last, from the Lord Lieutenant of Ireland to the House of Commons of that kingdom, relative to the Augmentation of the Forces there." The affairs of that kingdom are not only in the utmost disorder, but the laws of Great Britain have, in my opinion, been violated to deceive our fellow-subjects of the neighbouring nation out of their property. I will not now, Sir, dwell upon the absurdity of a system, which, in times of profound peace, can think of encreasing military expences, nor will I dwell upon the patriotism of ministers, who are studious to encrease the

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number of our forces at a period in which every dispassionate mind must see the propriety of a reduction. What I shall chiefly adhere to, Sir, is the manner, in which the augmentation was gained from the Irish parliament; the inducement which led the people of that kingdom to comply with this preposterous requisition of government; and if in the course of the little I may offer, any thing should appear to furnish a just ground for believing that the dignity of this nation has been sacrificed to plunder the inhabitants of Ireland, I hope our love of justice, as well as the regard which we should ever entertain for our own honour, will lead us into some spirited enquiries, and make a proper example of the sacrificer however dignified by office, and supported by connection.

If, Sir, the message as printed in all the public papers, and said to be the Lord Lieutenant's message to the Irish parliament, is not a scandalous forgery, and if the promise asserted to be the King's promise to that parliament also, be not a daring imposition, both the message and the promise are repugnant to the spirit of two English laws, the Act of the last session having repealed the 10th of king William, and the 13th of Charles 2, particularly vesting the disposition of all the land and sea-forces in the crown. Now, Sir, if a promise has been given to the people of Ireland, that 12,000 men shall be constantly stationed among them, I apprehend that the prerogative of the crown is given up; I apprehend that the obvious meaning of the two laws I have alluded to is defeated, and that the disposal of the 12,000 troops is not virtually in the sovereign, but actually in the Irish parliament.

This, Sir, is to me a matter of much importance; I would not have the royal prerogative diminished for the purpose of artifice; nor would I have an English act of parliament defeated in its design, for the shameful end of deluding the Irish fellow-subject into a supply. For these reasons I move, that the papers relative to the Augmentation Bill may also be laid before us; and I trust the hon. gentleman, who made the last motion, will rather think I assist, than counteract his benevolent intention.

Lord *North*:

Sir; it is not a little surprising, when gentlemen are so anxious about the welfare of their country, that they will not remember in some measure the nature of its laws; but it is still more surprising, that the very measures which are taken for maintaining the authority of this kingdom, are pointed out as a degradation of its honour, and a sacrifice of the royal prerogative.

Sir, though I shall never contend for giving Great Britain a wanton, an arbitrary power over any part of her dominions, and though I shall always contend for an English subject's possessing the privileges of an Englishman, in whatever part of our empire he may happen to be placed; still I must argue for the propriety, the necessity of placing a controuling power in some place; the vast body of the British territories must have a head; and surely such a superiority for the common good of all, cannot be more safely allowed than in our hands. We are the most immediately affected by any general misfortune, and consequently must be most solicitous for the general happiness; in point of antiquity, numbers, and opulence, we have a just title to pre-eminence, and as the parent state, it is more natural for the various dependencies which we have protected for so long a series of years, to obey our laws than to think of dictating to their protectors.

On this account, Sir, I am bold enough to stand forth an advocate for the prorogation of the Irish parliament. I am bold enough to say, that the prorogation was unavoidable, and that the minister would highly merit an impeachment, if he had not urged the expediency of such a measure. Gentlemen may declaim in general terms very pompously, and draw pathetic pictures of national calamities. They are supported by the temper of the times, and people without doors consider every man as a patriot, who tells them they are on the brink of destruction. However, Sir, give me leave to say, that what may be mighty fine in oratory, may be utterly false in fact; and give me also leave to say, that a single truth in a parliamentary debate, is a matter of more real importance, than the thunders of a Demosthenes, or the mellifluence of a Cicero.

The distresses of the Irish nation, Sir, have been painted in most melancholy colours, by the hon. gentleman who made the first motion, and they would really deserve our serious consideration, if it were not for one unfortunate circumstance, which is, that his picture is totally a child of the imagination. To prove this, let us

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only enquire into the present state of Ireland: is its trade upon the decline, is the landed property decreasing in its value, or are the people becoming poor? Alas, Sir, nothing like it. The trade of our sister nation never flourished so much; the value of landed property is hourly increasing; and so far are the people from being impoverished, that, if we except some places very remote from the metropolis, where laziness is attended with its never-failing companion, wretchedness, all is a continual scene of abundance and festivity.

So much for the poverty of Ireland. With regard to the augmentation of our forces in times of profound peace, it surprises me exceedingly that the gentlemen in opposition to government never maintain any consistency of conduct. The principal argument which they have used, during the present session, has been the alarming situation of the kingdom. They have told us that we were distracted at home, defied in our colonies, and that some of our formidable neighbours were actually meditating a blow that must instantly give birth to a new war. This has been the chief purport of their language, I repeat, through the present session, and one of their most distinguished leaders has pledged himself to the public, to the reality of hostile intentions in the court of Madrid. Yet, Sir, when their own accounts of domestic strife and foreign invasion have induced government to augment the national strength—the gloom is instantly dispelled; the whole horizon becomes unexpectedly serene, and the ministry are abused for incurring fresh military expences in an hour of the profoundest tranquillity.

The right hon. gentleman who spoke last, and who expressed so patriotic an apprehension, that the laws of this kingdom were violated in the promise given to the Irish parliament, that 12,000 men should be constantly stationed in that kingdom, is so usually accurate, that I wonder he could, upon the question before us, run into absolute contradiction. He says, that by the laws of England, the sole disposition of the land and sea forces belongs to the crown, therefore, the promise of continuing 12,000 men constantly in Ireland, is giving up the royal prerogative. That is in plain English, the exercise of the royal prerogative, is to relinquish the royal prerogative; and the disposal of troops at the discretion of the crown, is to wrest the disposition from its hands! To be serious, Sir, the crown has the right of disposing the land and sea force as it pleases; the crown therefore stations 12,000 men constantly in Ireland, agreeably to this right; and the actual execution of the English laws, is now said to be repugnant to two English acts of parliament.

Having thus answered the arguments of distress, of inexpediency, and illegality, urged against the augmentation, I now come to the main question which our patriots ask of government, "Why would you prorogue the Irish parliament, which had so liberally administered to your necessities?" That the Irish parliament is a truly illustrious assembly I am proud to declare, and that the Irish nation merits highly the good opinion of their sovereign, I am as ready to acknowledge; but the reason of the parliamentary prorogation, was the solicitude of the very ministers now reviled, to preserve the dependance of Ireland upon this kingdom. The Irish House of Commons entered into resolutions contrary to Poyning's law, into resolutions which consequently shook the foundation of our authority over Ireland, and therefore the parliament was prorogued: as to the manner of the prorogation, it was warranted no less by precedent, than justified by reason, and I affirm, that any loss resulting to the incorporated society from the measure, shall be made good from the privy purse.

Sir, I have now answered all the arguments in favour of the present motion, and shall only add, that those gentlemen who feel so much for Ireland, would do well to feel a little for England also; and as it would be criminal to violate the laws of this country, to seize the property of that, I hope the opposition will not look upon the enforcement of an established act to be unjust, which consults their mutual preservation.

Sir *William Meredith*:

I shall beg leave, Sir, to revert to the original proposition of my hon. friend, the consideration of the prorogation of the Irish parliament; and, in order thereto, a summary view of Poyning's law, and those statutes which are derived from it, deserve your attention.

The historians of those times inform us, that the 10th of Henry 7 was designed as a curb to the power, not of parliament, but of the chief governors; the act itself declaring, that the bills to be passed in

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parliament should be certified over, under the great seal of Ireland, previous to its commencement. The great inconvenience of this regulation induced them to enable the council, by the 4th and 5th of Philip and Mary, to transmit bills, over-setting the parliament; but, Sir, it is observable, that no mention is made of Money Bills in any of those statutes, and this Act was twice suspended in the times of Henry 8, and queen Elizabeth, to clear up some doubts, I conceive, which had arisen, relative to the sole right of the Commons to originate Money Bills. Now, Sir, I totally differ from the noble lord, that this Resolution of the Commons was contrary to Poyning's law, or that the precedent of 1692 is in point. It is contended that the council have by law a right of originating Money Bills; the practice, it is acknowledged, has been for all grants to proceed from the Commons, and the first grant of tonnage and poundage, the 17th of Henry 7, in Ireland, is declared in the preamble to proceed from the Commons. Admitting that they have a concurrent right, the late Resolution of the Commons of Ireland, viz. "That this Bill be rejected because it did not take its rise in this House," means no more than this—two modes of originating Money Bills being proposed, we conceive that of the House of Commons to be the superior, and therefore reject this Bill (which it is acknowledged they had an indisputable right to do) because it originated in the council, and not in this House, which we conceive to be the better mode of the two. I do say that the Commons had a right to give this for their reason; and that it did not impugn in the least the validity of the statute in question.

Had the House of Commons assigned the Resolution in 1692, viz. that this Bill be rejected because it is the exclusive right of the Commons to originate Money Bills, which, I am informed by some leading men in that country, was at first proposed, but afterwards moderated to the present form; this would have impugned the claim of the council; but at present neither protest nor prorogation is founded upon the precedent of lord Sydney in 1692.

I shall not, at present, comment upon the violation of the privileges of both Houses of Parliament by lord Townshend's protest, but content myself with observing, that in a speech of sir G. Macartney's, printed, as it appears to me, in justification of this measure; he says, that this council money-bill was a fine which they paid for the renewal of parliament, and pointed to a leading man of great abilities in that country; telling the House at the same time, that he had lost his place of chancellor of the exchequer for impeding the progress of a similar Bill at the commencement of his present Majesty's reign, recommending it to others to avoid a like fate. Sir, I do contend that the proceedings of administration in Ireland have been most arbitrary and oppressive. This House has a coercive power over ministers in every part of the British empire; and I hope that the afflicted country of Ireland will obtain from the legislature here, that reparation which her own parliament can no longer give her; and that your policy and interest will induce you to do that which justice loudly demands from you.

Then the main question as amended, being put, "That an humble Address be presented to his Majesty, that he will be graciously pleased to give directions, that there be laid before this House, a copy of all Instructions given to the Lord Lieutenant of the kingdom of Ireland, relative to the late sudden prorogation of the Irish parliament, at a time when affairs of the greatest national importance to that kingdom were depending in the said parliament; together with the papers on which the said instructions were founded, and his answers thereto; and likewise a copy of a Message of the 16th of November last, from the Lord Lieutenant of Ireland to the House of Commons of that kingdom, relative to the Augmentation of the Forces, there;"

The House divided. The Yeas went forth.

Tellers.

Yeas	Mr. Walsingham - - - Mr. Seymour - - - - -	66
Noes	Mr. Onslow - - - - - - Sir George Osborn - -	178

So it passed in the Negative.

*Debate in the Lords on the Earl of Chatham's Bill for reversing the Adjudications of the House of Commons against Mr. Wilkes.**] May 1. The Earl of Chatham presented to the House a Bill of which the following is a copy:

* From the London Magazine, and London Museum.

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An Act for reversing the Adjudications of the House of Commons, whereby, John Wilkes, esq. has been adjudged incapable of being elected a Member to serve in this present Parliament, and the Freeholders of the County of Middlesex have been deprived of one of their legal Representatives.

Whereas the capacity of being elected a representative of the Commons in parliament is (under known limitations of law) an original inherent right of the subject; and forasmuch as to deprive the subject of this high franchise and birth-right, otherwise than by a judgment according to the law of the land, and the constant established usage of parliament conformable thereto, and part thereof, is directly contrary to the fundamental laws and freedom of this realm, and in particular to the Act, "declaring the rights and liberties of the subject, and settling the succession of the crown," at the ever-memorable period of the Revolution; when free election of members of parliament was expressly vindicated and secured:

And whereas John Wilkes, esq. having been duly elected and returned a knight of the shire to serve in this present parliament for the county of Middlesex, was, on the 17th of February 1769, without being heard, adjudged incapable of being elected a member to serve in this present parliament, by a Resolution of the House of Commons, as follows:

"Resolved, That John Wilkes, esq. having been in this session of parliament expelled this House, was, and is incapable of being elected a member to serve in this present parliament:"

And whereas on the same day the said House of Commons farther resolved as follows: "That the late election of a knight of the shire to serve in this present parliament for the county of Middlesex is a void election."

And whereas the said John Wilkes, esq. having been again duly elected and returned a knight of the shire to serve in this present parliament for the county of Middlesex, the said House of Commons did, on the 17th of March, 1769, resolve in the words following: "That the election and return of John Wilkes, esq. who hath been by this House adjudged incapable of being elected a member to serve in this present parliament, are null and void:"

And whereas the said John Wilkes, esq. having been again duly elected and returned a knight of the shire to serve in the present parliament for the county of Middlesex aforesaid, and having on the original poll-books, 1143 votes in his favour against 296, in favour of Henry Lawes Luttrell, esq. the House of Commons did, on the 15th of April, 1769, without a hearing of parties, and in manifest violation of the indubitable right of the freeholders of the county of Middlesex to choose their representatives in parliament, resolve as follows:

"That Henry Lawes Luttrell, esq. ought to have been returned a knight of the shire to serve in this present parliament for the county of Middlesex, and thereupon ordered the said return to be amended accordingly:"

And whereas, by another Resolution of the 8th of May, 1769, the said House of Commons did, upon hearing the matter of the petition of the freeholders of the county of Middlesex, as far as the same related to the election of Henry Lawes Luttrell, esq. farther resolve as follows:

"That Henry Lawes Luttrell, esq. is duly elected a knight of the shire to serve in this present parliament for the county of Middlesex:"

And forasmuch as all the Resolutions aforesaid, cutting off the subject from his indubitable birth-right, by a vote of one House of Parliament, exercising discretionary power and legislative authority, under colour of a jurisdiction in elections, are most arbitrary, illegal, and dangerous;

Be it therefore declared and enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in this present parliament assembled, and by the authority of the same, "That all the adjudications contained in the above mentioned several Resolutions are arbitrary and illegal, and the same are and shall be hereby reversed, annulled, and made void, to all intents and purposes whatsoever.

After the first reading of the said Bill, it was moved, that it be read the second time on Thursday next; which being objected to,

Earl *Temple* stood up in support of the motion. His lordship expatiated largely on the illegal assumption of the House of Commons; arraigned their adjudication in very spirited terms; and urged the repeal

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of a grievance, that so apparently struck at the vitals of all liberty.

In this he was supported by the duke of Richmond.

Lord *Lyttelton* added, that as the mode of bringing on this question was before objected to, that objection could no longer have any weight, as it was now introduced by a Bill.

The Earl of *Denbigh* replied to this in a long speech, and talked a great deal of the inherent, exclusive power of the House of Commons. Though he had a great opinion of the spirit and abilities of the noble lord who introduced the Bill, yet he could not but differ with him in this point, as thinking it unprecedented and illegal, it being totally unbelonging to that House to call to account the adjudication of the other. He observed, that this was the only business of any consequence transacted there since the session began, and notwithstanding every determination was carried against it, he was surprised, at almost the end of the session, to find the same question still agitated; that for his part, he could not charge his memory, or his reading, when the Lords ever interfered in a like nature; and that for these, and many other reasons, he was against the Bill.

The Earl of *Chatham:*

My lords; the noble lord who last favoured us with his sentiments, has been very violent against the present motion; he seems even to be angry with the advocates for the Bill, but his anger is of a species, that must rather excite our smiles, than provoke our resentment; I shall therefore take no notice of the reflections which he has thrown out upon the faction, as he politely stiles the minority, but proceed at once to recapitulate the cause of this unlucky measure, which is so unfortunate as to be the object of his indignation.

My lords, the great basis of public freedom in this country, is the constitutional right which the subject enjoys, of electing his representative in parliament. This right has been recently and notoriously violated by the members of the House of Commons, who, though themselves delegated, presume to appoint their own members, and claim the exercise of a power, even superior to that of the very people from whom alone they derive all their authority.

The county of Middlesex, my lords, lately chose a gentleman, no way incapacitated by the law of the land, to be their representative; the number of voices which polled for this gentleman were 1143; against him appears a court candidate with 296 votes: yet, notwithstanding the great majority in favour of the former, the House of Commons not only refuse to admit him, but actually appoint his opponent to the vacant seat, in defiance of all law, in defiance of all shame, in defiance of all the execrations of their indignant countrymen. If a procedure of this nature is tolerated, what becomes of every franchise which we hold sacred as Englishmen? This is laying the axe at once to the root of our constitution; and arguing in extenuation of it, is only adding insult to injury, and desiring us to kiss the hand of the assassin, while he mercilessly plunges a dagger in our hearts.

My lords; it is true the House of Commons had a right, if petitioned by their self-appointed member, to examine carefully into the legality of the 1143 votes given for his competitor; but if the votes were legal they had no right to set him aside; the same law that constitutes the House of Commons, gives the freeholders their discretional power of chusing whom they please, and it is to this very power, that the men thus trampling on the constitution, are indebted for their own political existence. But when no petition is lodged, when no illegality in the 1143 voices is even so much as pretended, the outrage becomes aggravated in proportion to its audacity, and shews us that we are not to be allowed the mere shadow of a constitution.

My lords, it has been insisted, that there is no precedent for this House taking notice of the proceedings of the Commons, yet I am pretty positive, that in the case of Titus Oates, there is one perfectly in point, where the Commons took cognizance of our proceeding. However, the justice of the measure is superior to the force of precedents, and, indeed, if the three branches of the legislature were not intended as checks upon each other, we might as well be governed by one despotic head, we might as well be slaves to one arbitrary master.

It is however said, my lords, that a spirit of discontent has gone abroad, and that, consequently, the present Bill is inexpedient. Now, for my own particular part, I consider this objection as a fresh

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argument in support of the expediency. If the nation is discontented, it is our duty to remove, as far as possible, this discontent. But our humane ministers, while they scatter oppression round their country, will not even allow the injured a right of complaining. Their majority in the lower House is a political inquisition, with which they terrify every orthodox professor of liberty, so that one cannot help exclaiming with Shakespeare "fie on" their House:

"Fye on't! O fye! 'tis an unweeded garden
"That grows to seed; things rank and gross in nature
"Possess it merely"———

My lords; I am apprehensive, I am too apprehensive, that this mode of proceeding springs near the palace; but I hope it will be speedily seen there in all its genuine deformity. For myself, though I shall never abet the clamours of faction, I will ever stand forth an advocate for the just rights of the people; and while I am able to crawl upon the surface of this globe, I will pledge myself to their cause, conscious that it must be the cause of liberty and virtue.—(Here lord Pomfret interrupted him, by calling to order, for his remarking so freely in the last part of his speech.) On which lord Chatham again got up, and said, I do not retract my words—I esteem the King in his personal capacity, I revere him in his political one; and on these principles I hope he will see it, and see it in such a light, that he will redress it by the dissolution of a House that could adopt such a measure.

Lord *Mansfield:*

My lords; in this debate, though it has been already spoken to with great eloquence and perspicuity, I cannot content myself with only giving a silent vote: I feel myself under a strong necessity of saying something more; the subject requires it, and though the hour is late [it being then near ten o'clock] I shall demand your lordships' indulgence, while I offer my sentiments on this motion. What part I took previously in this matter shall ever remain with myself. I have, I must confess, deposited it in the breast of one of the royal family, but, resting secure in that confidence, it shall never be disclosed to another.

I am sure, my lords, many of you must remember from your reading and experience, several persons expelled the House of Commons, without ever this House once pretending to interfere, or call in question by what authority they did so. I remember several myself [Here his lordship quoted several cases with great strength of memory] in all which, though most of the candidates were sure to be re-chosen, they never once applied, resting contented with expulsatory power of the House, as the only self-sufficient, dernier resort of application.

It has been echoed on all sides, from the partizans of this motion, that the House of Commons acted illegally in accepting colonel Luttrell, who had but 296 votes, in preference to Mr. Wilkes, who had 1143; but this is a mistake of the grossest nature imaginable, and which nothing but the intemperance of people's zeal could possibly transport them to, as Mr. Wilkes had been previously considered by the laws as an unqualified person to represent the people in parliament; therefore it appears very plainly, that colonel Luttrell had a very great majority, not less than 296; Mr. Wilkes being considered as nobody in the eye of the law, consequently colonel Luttrell had no legal opposition.

My lords; in all contested elections, where one of the parties think themselves not legally treated, I should be glad to know to whom it is they generally resort? Is it to the freeholders of the borough, or the county they would represent, or is it to the people at large? Who cannot see, at once, the absurdity of such a question? Who so ignorant of our laws, that cannot immediately reply and say, "It is to the House of Commons, who are the only judges to determine every nicety of the laws of election, and from whom there is no appeal, after they have once given their determination." All the freeholder has to do, is to determine on his object, by giving him his vote: the ultimate power lies with the House of Commons, who is to judge of his being a legal object of representation in the several branches of his qualifications. This, my lords, I believe is advancing no new doctrine, nor adding an iota to the extension of the privilege of a member of the House of Commons, more than what the constitution has long ago given him: yet here is a cry made, in a case that directly applies to what I have been speaking of, as if it was illegal, arbitrary, and unprecedented.

I do not remember, my lords, either in the course of my reading or observation ever to have known an instance of a person being re-chosen, after being expelled, till

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the year 1711: then indeed, my memory serves me with the case of sir Robert Walpole; he was expelled the House of Commons, and was afterwards re-chosen; but this last event did not take place till the meeting of the next parliament; and during that interval I find no debate about the illegality of his expulsion, no interference of the House of Lords, no addresses from the public to decry that measure, by a dissolution of parliament.

Indeed, as for a precedent of one House interfering with the rules, orders, or business of another, my memory does not serve me at present with the recollection of a single one. As to the case of Titus Oates as mentioned by the noble lord in my eye, he is very much mistaken in regard to the mode; his was a trial in the King's-bench, which on a writ of error, the House of Commons interfered in, and they had an authority for so doing: a judge certainly may be mistaken in points of law: the wisest and the best of us may be so at times, and it reflects no discredit, on the contrary it does particular honour, when he finds himself so mistaken, to reverse his own decree; but for one house of parliament, interfering with the business, and reversing the resolutions of another, it is not only unprecedented, but unconstitutional to the last degree.

But suppose, my lords, that this House coincided with this motion; suppose we all agreed, *nem. con.* "to repeal and rescind the Resolutions of the House of Commons in regard to the expulsion and incapacitation of Mr. Wilkes;"—Good God, what may be the consequence! The people are violent enough already, and to have the superior branch of legislation join them, would be giving such a public encouragement to their proceedings, that I almost tremble, while I even suppose such a scene of anarchy and confusion.

I remember, my lords, an anecdote of Roman history, as told us by that justly celebrated historian Livy. At a period when the people of Rome thought their senate were acting unconstitutionally, they had formed a scheme of giving them up into the hands of the enemy—determined on this opinion, they were for some time waiting but for an opportunity; when one of their leaders, on whose valour, wisdom, and integrity they had the last dependance, diverted them from their intentions, by reminding them, "that by this revolution they might probably change for worse masters." From the inference that may be drawn from this anecdote, and for the reasons I have already mentioned to your lordships, I am against this Bill.

Lord *Camden:*

My lords; I have reserved myself till now in this debate. Indeed, I did not think it necessary to speak after so many of my ingenious friends, who have discussed this subject with an elocution and integrity that must reflect equal honour on their hearts and abilities; but the sentiments of the noble lord on the woolsack, just delivered, force me from my seat, and I should think myself wanting in my duty, as a friend to this House, to the constitution, and consequently to the cause I am embarked in, did I forego making some observations on opinions, I think, pregnant with such unconstitutional doctrines.

As to the noble lord's reasons on the first measure of this debate—why he concealed them, or what is equally the same, only communicated them in confidence to one bosom, I have nothing to do with; they may appear sufficiently cogent to influence him to act so; though I could not reconcile it to myself, in a matter of such importance, to sit totally neuter; there is a period when this poised situation in so principal an office of the crown becomes dangerous to the state, as well as criminal in the party; and the negation of advice, when wanted, very often may be of the most fatal and dangerous consequence.

My noble friends who spoke early in this debate, particularly the noble lord who faces me (meaning lord Chatham) have very fully and satisfactorily shewn you the illegality of the Middlesex proceedings in parliament. He has explained how the votes of electors have been unwarrantably set aside; how the House of Commons have assumed a power, in respect to the election in point, of setting up their will against Magna Charta, the Bill of Rights, and those fundamental laws from whence the people at large derive their privileges: in short, he has very judiciously painted its process, and held it out in that strong, yet not overcharged, colouring which it really wears.

The noble lord on the woolsack asks, In all contested elections who should the people resort to but the House of Commons to decide on their legality? I agree thus far with the noble lord; they are very judiciously the resort in these cases; but what do they determine on? Why, they are to determine on the qualifications of

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the voter, the validity of charters, usage of places, and the majority of the number of electors thus qualified. But in the case before us, the opponent does not even pretend that any of these were broken in upon; conscious of being able to play a safer and more expeditious game, he only produces his 296 votes, which though but a fourth part of what was voted against him, serves him effectually, and he takes his seat as if he had an apparent majority, qualified in every respect agreeably to the principles of the constitution.

But, then, it is objected, that Mr. Wilkes being an expelled member, he could not be considered as a legal opponent. Will that noble lord suffer me to ask him another question, by way of answer? Was there not a time when Mr. Wilkes was not under expulsion, and when he was unanimously chosen? What then prevented the House from admitting him their member? I am ashamed to guess at it—merely because they would act in an arbitrary, dictatorial manner, in spite of law, or precedent, against reason or justice—a Secret Influence had said the word, "Mr. Wilkes shall not sit;" and the *fiat* was to be obeyed, though it tore up the heart strings of this excellent constitution.

The noble lord has been very expert in referring to cases; he has shewn great strength of memory, as well as industry, in so readily producing them; but I apprehend the question should be taken upon a more broad and general bottom, not only as a particular candidate against a particular candidate; not as Mr. Wilkes opposed to colonel Luttrell, but as the electors at large against the assumed power of the House of Commons. The noble lord, though I am very well acquainted with the goodness of his memory, and have but just now borne testimony to it, has, however, forgot one precedent, where one branch of legislation took cognizance of the other. I shall beg leave to remind him of it, and I am sure, when I mention it, his intimate knowledge with the history of this country will readily furnish him with a recollection of it. It was that infamous tax of Ship-money, in the reign of Charles the first. This inequitable, unconstitutional tax, was as loudly talked of to be legal then, as the expulsion and incapacitation of Mr. Wilkes is at this day, and it received almost as great an authority; it received the authority of the twelve judges of the land, assembled in solemn convocation in the court of Exchequer; a ratification that nothing could be seemingly stronger;—but what did the succeeding parliament, who met in the year 1640, do? Why, the very first thing they did, was to nullify that determination, as being contrary to the laws of the land, and injurious to the rights of the people.* And will any one be hardy enough at this day to assert they did wrong? So far from being alarmed at one act of legislation interfering with another, they considered, that though it was a painful act of necessity, yet it was better to do so, than suffer themselves to be enslaved—the people justly joined in the cry, and it then ceased to be a case between Mr. Hampden and the king, but the people of England against venal and oppressive ministers.

I will suppose, my lords, for a moment, that our ancestors acted as the noble lord on the woolsack at present advises: that they, for fear of fomenting the divisions of the people, acquiesced under the sentence of the judges. What would be, at this day, the consequence? Why, my lords, we should only be taxed at the arbitrary will of a minister; and if we dared to complain, we should be treated as persons acting in opposition to the laws of the land.

As for my part, I must agree with my noble friend who made this motion, "that I will join my feeble efforts to the voice of the people," and the louder I hear them cry, the more I shall be pleased; and shall ever, while they proceed in a legal manner, be proud of the honour of assisting them. Let us consider, my lords, we are not now debating a ridiculous point of precedence, or honour, but the liberties and laws of this country; and in such a critical point of necessity, it becomes us to be sanguine; it becomes us to be unwearied in our endeavours. The judgment passed upon the Middlesex election has given the constitution a more dangerous wound than any which were given during the twelve years absence of parliament in the reign of Charles the 1st; and though this Bill might be rejected (as we are all sensible how far a majority will supersede reason and argument), I trust in the good sense and spirit of the people of this country that they will renew the claims of their inherent and unalienable right to a true and free representation in parliament: and if, session after session, the

* See vol. 2, p. 542.

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same fatal influence should continue (which, for the peace and happiness of this country, Heaven avert!) I expect Englishmen will not lose sight of this Bill at the next general election; but that, then, they will make such a compact with the elected, as to procure an equal representation, and a full redress of the many difficulties they have laboured under.

Lord *Shelburne*, in a severe speech upon the ministry, endeavoured to call up lord Mansfield again, but it was impossible. Among other things, he said, that lord North, who advised the giving Luttrell a place, in order to set him up for Middlesex, deserved to be, and he hoped would be, impeached.

The Duke of *Grafton*, in a speech vindicating the ministry, complimented colonel Luttrell on his courage as a gentleman and as a soldier, in standing candidate for Middlesex.

Earl *Stanhope* said, he had prepared to go abroad, but altered his mind on account of this national and great constitutional cause; which he was determined to support, at the expense of his life, if necessary.

It now being late, and the court lords having repeatedly called out the question! the question! the House divided upon the question, Whether the Bill should be read a second time. It was resolved in the negative. Contents, 43; Not Contents, 89.

Protest against rejecting the said Bill.] Then Lord Gower moved that the said Bill be rejected. The question was put thereupon. It was resolved in the affirmative.

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"Because the foundations of this Bill being so fully laid in the reasons contained in two Protests entered upon the Journals of this House on the 2nd day of February last, we think it indispensibly necessary to protest against the rejection of the same, to the intent that it may be delivered down to posterity, that this great constitutional and effectual method of remedying an unexampled grievance, hath not been left unattempted by us; and that to our own times, we may stand as men determined to persevere in renewing, on every occasion, our utmost endeavours to obtain that redress, for the violated rights of the subject, and for the injured electors of Great Britain, which, in the present moment, an overruling fatality hath prevented from taking effect; thereby refusing reparation and comfort to an oppressed and afflicted people. ——*(Signed)* Chatham, Portland, Plymouth, Rockingham, Abingdon, Boyle, Grosvenor, Stanhope, Ponsonby, Suffolk, Richmond, Radnor, Archer, Fitzwilliam, Temple, Torrington, Rutland, John Bangor, Wycombe, Fortescue, Huntingdon, Tankerville, Abergavenny, King, Ferrers, Lyttelton, Bolton, Camden, Coventry, Buckinghamshire, Scarborough, Northumberland, Manchester."

At the conclusion of the debate, lord Chatham desired the Lords might be summoned for the 4th of May, for, said he, I have a motion of great importance to make, relative to the King.

Debate in the Lords on the Earl of Chatham's Motion touching the King's Answer to the Remonstrance of the City of London.] May 4. The Earl of Chatham moved the following Resolution:

Resolved, "That it is the opinion of this House, that the advice, inducing his Majesty to give the Answer to a late humble Address, Remonstrance, and Petition, of the lord mayor, aldermen, and livery of the city of London, in common hall assembled, is of most dangerous tendency; inasmuch as thereby, the exercise of the clearest rights of the subject, namely to petition the King for redress of grievances; to complain of violation of the freedom of election: to pray dissolution of parliament; to point out mal-practices in administration; and to urge the removal of evil ministers, has, under pretence of reproving certain parts of the said Remonstrance and Petition, by the generality of one compendious word, 'contents,' been indiscriminately checked with reprimand; and the afflicted citizens of London have heard from the throne itself, that the contents of their humble Address, Remonstrance, and Petition, laying their complaints and injuries at the feet of their sovereign, as father of his people, able and willing to redress them, cannot but be considered by his Majesty, as disrespectful to himself, injurious to his parliament, and irreconcilable to the principles of the constitution."

The Earl of *Chatham* said:

My lords; in consequence of the motion I have now made, it is necessary for me to consider what it was which the

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lord mayor and the city of London requested, in order that I may discover by the nature of the requisition, how they could possibly deserve such an answer from the throne as I have complained of, an answer so harsh, that the whole course of my knowledge in the history of England is at a loss to find out a parallel. The lord mayor and the citizens of London very humbly besought a restoration of the freedom of election, a dismission of unjust servants, and a dissolution of a parliament which protected these unjust servants, as they could not be constitutionally represented by the supporters of oppression, or the enemies of liberty.

Now, my lords, I maintain the justice of this petition, and I moreover maintain, that the subjects of this realm are not only entitled by Magna Charta and the Bill of Rights to petition, wherever they suppose themselves aggrieved, but by a variety of laws as expressive as they are numerous. Now, my lords, let me re-consider the Answer from the throne. It does not reply to any particular part of the Address, Petition, and Remonstrance, but condemns the whole at once as disrespectful to the monarch, injurious to his parliament, and irreconcilable to the principles of the constitution. I am too well acquainted with the benignity of the royal heart, to think his Majesty capable of giving such an answer; and I know that he could not with propriety give it either in his personal, or his regal capacity. First, with regard to the "disrespect offered to himself," no judgment is here of any competency, but the judgment of the laws; the laws are to pronounce upon the respect, or the disrespect, and the laws only can determine properly upon either. In the next place, how could the Address, Remonstrance, and Petition, be "injurious to parliament," when it particularly contends for that very freedom of election which alone can constitute the lower house of parliament? and in the third place how could the supplication in question be "irreconcilable to the principles of the constitution," when the very essence of the constitution actually permits, nay actually requires, the subject to petition for a redress of grievances? This is a right which the most despotic of the Stuarts never dared to deny even in the zenith of their power; and I repeat, that his Majesty could never give the answer now under animadversion from himself; I have too established an opinion both of his head and heart to suppose it; and indeed contemptibly as I think of administration, I can hardly think it was a joint advice; I rather believe it the advice of one or few; yet let me say, that whoever the advisers were, they were either knaves or fools; if the first, they should be held out to the detestation, to the resentment of an injured people; if the latter, they should be sent to school, instead of being entrusted with the management of a mighty empire.

My lords, when I mentioned the livery of London, I thought I saw a smile of ridicule upon some faces, as if they were a body too insignificant for attention in this assembly; let me, however, declare, that though I have the honour to be a member of this House, I think my character exalted by concurring in the cause of liberty with such virtuous citizens; and let me tell the noblest of you all, that such a concurrence would exalt your characters. The livery of London, my lords, were respectable at the time of Cæsar's invasion; the lord mayor of London was a principal among the 25 barons, who received Magna Charta from king John; and the lord mayor with the livery have ever since been considered to have a material influence in all affairs of government. Yet, on the late occasion how have they been treated? They have been sent away sore afflicted from the royal presence, and they have been reprimanded for asserting their unquestionable privileges as Englishmen.

My lords, when Greece was losing her freedom, Philip of Macedon figuratively observed that she had lost an eye; this expression may be well applied to the wound which the British constitution has received in the Middlesex election; I may properly say, that in this business, England has lost an eye, and the other is so violently contused with the stroke, as to fill us with terror, lest a total darkness should overspread the face of our national liberty; for I do aver that colonel Luttrell is no representative of the people; but a nominee, forced into parliament by the enemies of law, the subverters of justice, and the betrayers of their country.

The Duke of *Newcastle* stood up, and said he acted without any factious views: he acted upon the dictates of his conscience.—[Here he was suddenly seized with a want of utterance, and seemed as if choaking. The whole House was in the utmost amaze. His grace sat down; and being repeatedly called upon to go on, he

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stood up again; but could only say—"I am not well, my lords," and sat down again.]

Earl *Gower:*

My lords; I own myself astonished at the motion made by the noble lord who opened the present debate, whether I consider the assembly in which it is proposed, or recollect how well the proposer is acquainted with the proceedings of parliament. The noble lord surely cannot be ignorant, notwithstanding the well known versatility of his temper, that the very subject he now offers to your consideration, was debated in this House before, and that in consequence of that debate, an Address of thanks was presented to his Majesty, both by this and the other House, for the very Answer which he now advises you to censure. A proceeding of this nature is not only repugnant to order, but palpably repugnant to common sense; and it is rather strange, that an invention so fruitful in political resources as the noble lord's, could not find out a more decent method of paying court to the livery of London, than by endeavouring to trifle with the sovereign, and degrading the two houses of parliament.

The noble lord does not pretend to shew any cause at present for desiring this strange alteration in your lordships' opinion, which did not exist when the question was originally agitated. Does he, then, think to make the determinations of this House appear to the world as inconsistent and as ridiculous as the tenor of his own political conduct? Are we to thank his Majesty for his answer on one day, and yet the very next without reason or pretext, to condemn the object of our approbation? A conduct of this kind may be agreeable to the capricious insanity of a political empiric, dead to shame, and lost to sensibility, but it would ill become the dignity of the greatest council in the British empire.

For these reasons, I hope the House will be of opinion, that the question cannot by any means be taken again into consideration. Indeed, some, who would willingly earn the unthinking plaudits of popularity by seeming to support it, have insinuated, that when the subject came first before us it was not fully debated: but let me ask on whom the odium of precipitancy is to be thrown? on the arbitrary administration, or the exalted advocates for liberty? The noble lords who complain of this precipitancy, may very well recollect, and recollect with blushes, that when the present motion was originally taken up, they themselves were the persons who quitted the fair field of open discussion, and left the fate of their country to the mercy of unrelenting ministers. But, indeed, the object which called off their attention from the national concerns, was an object of considerable importance; and posterity, though it may lament their absence on that critical occasion, when no less than the cause of public freedom was at stake, may, in the greatness of the temptation, admit of arguments in their favour. Hear therefore, ye succeeding ages, what drew the champions of the British constitution from the standard of patriotism on that memorable day. A city dinner drew your political saviours from the defence of your rights; and the constitution of the kingdom, when put in the balance against a feast, instantly kicked the beam.

My lords; if the happiness of the British empire was not a matter infinitely too serious for a jest, I could be really diverted to see the fortitude with which our mirrors of public virtue, now their bellies are full, return to the service of their dear country; and out of gratitude for the good cheer of the Mansion-house, weep over the indignities offered to the sorely afflicted livery of London; that livery which was respectable in Cæsar's time, when no trace of it is discoverable, and that livery which is now so contumeliously treated, because it is not allowed a judicial pre-eminence over both houses of parliament! But however the Decii, the Fabii of the present hour, may engage the admiration of ignorance without doors, within I trust they will never make us contemptible: to the despicable excuses therefore now urged for reviving the question before us, 'that one could not stay to hear it fully debated, and that another was not present,' let us answer with a question, 'Why could you not stay, why were you not present?' It was your duty to stay, it was your duty to be present; and if the people were not infatuated to a most lamentable degree, this single circumstance would tear the laurel at once from the brow of hypocritical ambition, and fix a brand of eternal ignominy in its place.

The noble lords in opposition are, I suppose, now come with studied harangues upon the tyranny of ministers, the miseries of the nation, and the inflexibility of the

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sovereign; it is really a pity that they cannot make a display of their great abilities consistently with the rules of this House; yet, if they will thunder it away in the capitol, I would recommend it seriously to such members as differ from them in opinion not to make the least reply; this will be the best means of bringing matters to a speedy determination; this will be the best way likewise of resenting this mockery of all order, this insult to our dignity, and this violence to our understandings.

The Earl of *Pomfret* observed, that the House had been of late almost totally taken up, by a popular nobleman on a popular subject, and that he was sorry to find business so much impeded by requisitions incongruous in their very nature; as if these noble lords would, in the course of about six weeks, so change their opinions as now to condemn a measure, they had then approved of, by addressing his Majesty on the propriety of his Answer. He added, that the King's Answer to the City Remonstrance, was such an answer, as was not only proper, but agreeably to the answers which former kings of England had given to their importunate subjects; Charles 1, Charles 2, James 2, and queen Anne. He said, this matter had been agitated before: the mover of this question was like a boar coming again and again to the same thing: and the whole Opposition consisted of a faction, who were desirous of nothing but places.

The Earl of *Suffolk*:

My lords; the noble lord who made the motion, has so clearly pointed out the right of the subject to petition for a redress of grievances, and the grievances are so notorious to every dispassionate mind, under which this country now labours, that I shall not take up your time in proving the legality of the first, or the particular expediency of the latter: I only rise to answer that part of the argument, in which the ministry thinks itself impregnable, namely, the incongruity of censuring those measures which we have once approved, and the mighty injury which our dignity must sustain in the candid acknowledgment of a mistake. For my own part, my lords, I have an old fashioned honesty in my nature, which is ready to confess an error, and ready also to think the confession rather a credit to my understanding than an impeachment of it; infallibility is not the lot of human nature, and why in our public capacity we should be ashamed of doing what would highly become us in our private, I am utterly at a loss to reconcile. The constitution does not suppose our resolutions perfect, and experience every day convinces us, that many acts which we plan with the nicest circumspection one session, are absolutely necessary to be repealed the next: yet such an alteration in our opinion is never considered as injurious, either to the accuracy of our judgments, or the probity of our hearts. A reversal of decrees, upon proper conviction, exposes the courts of law below to no obloquy, and why a change in our sentiments relative to the London Address, Remonstrance, and Petition, should be so big with absurdity is wholly beyond my conception. But the truth I fear is, the gentlemen in office, though they see a blunder, will neither own, nor amend it; to amend would be to declare themselves capable of erring, and for the credit of ministerial rectitude, oppressions must continue, however injurious to the honour of the throne, or prejudicial to the interest of the nation. In reality, government seems delighted in opposing the wishes of the people. Ireland, after its money is taken away, is deprived of its parliament, though the nation is unanimously for its sitting; and England, where the general voice calls out for a dissolution, is to be blest with a continuance of its upright representatives! Where must proceedings of this nature terminate? I tremble to reply. The present aspect of our affairs is all horror, and without a speedy change of measures, the next scene may be all desolation.

Lord *Shelburne*:

My lords; perhaps there never was a period more distressing, or more disgraceful in the annals of Great Britain than the present; when the proceedings of ministers are so abandoned, that they either have nothing to offer, or think it unnecessary to offer any thing in their own defence. Secure in their majority, they look upon shame without a blush; and hardened in oppression they even smile at the miseries of a groaning people. It is gravely told us, my lords, that the Answer lately given to the City Address, is similar to the answers given by Charles 1, Charles 2, James 2, and queen Anne, to similar applications of their subjects for redress of grievances. But are some of the princes here named ranked in the catalogue of excellent sovereigns? are they venerated as the parents, or despised as the betrayers of their people? and

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was there no instance upon record that suited the present occasion but instances from the reign of the Stuarts? My lords, since examples from history are to be quoted, let me tell you of one that does honour to the English name, and reflects new lustre upon the hero of the Revolution. Let me tell you of the Kentish Petition, in compliance with which William the 3rd dissolved the parliament, to let the nation see he had no double game to play, and to shew that as he had no interest separate from the interest of his subjects, all parliaments were alike acceptable to him, that were agreeable to the wishes of the kingdom. Here is a precedent for royalty, if precedents must be talked of in opposition to common sense; and happy would it be for this country if it was carefully attended to by our silent ministers! When I first came into administration, a new tax happened to be agitated, and I was called upon to defend it. My silence was considered as incapacity, and some at this moment wilfully dumb, triumphed not a little because I made no reply. In my turn, therefore, I call upon them to say something in their own favour, something that may savour of modesty, though it does not relish of wisdom; that the world may at least suppose they think themselves in the right, however their conduct may prove them indefensible. What! still silent? Let them still continue so—I see upon what they depend—but let them take care —national resentment, though slow, is dreadful; and the public is a wolf, which if it does not even bite, will certainly worry a profligate ministry into justice.

A noble lord, who spoke just now, harped upon an expression, dropt by a noble earl relative to secret influence, and seemed to call for an explanation of that phrase. I will explain it to that noble lord; that secret influence, are measures adopted by a set of men, who, on his Majesty's accession to the throne of these realms, listed under the banners of the earl of Bute; who impudently call themselves the King's friends, but who are in reality nobody's friends but their own; who have acted without principle, with every administration, sometimes supporting them, and sometimes betraying them, according as it served their views of interest—who have directed their attention more to intrigues, and their own emoluments, than the good of the public. This is that secret influence; and if that noble lord, or his adherents, want to be further informed, I refer them to an excellent pamphlet just published, called "Thoughts on the Cause of the present Discontents."

The House then divided, and the motion was rejected by 85 against 37.

Debate in the Lords on the Bill for preventing Delays of Justice by reason of Privilege of Parliament.] May 9. The order of the day being read for receiving the Report of the Bill, "for the further preventing delays of justice, by reason of privilege of parliament." It was moved, That the Bill be recommitted.

The arguments made use of against passing the Bill, without amendments, were, That the dignity of parliament would be eclipsed by it, in respect to their servants: and the lords Marchmont and Sandwich observed, the inconvenience any noble lord might be under if his coachman was arrested on his box, going to the House. Lord Marchmont particularly observed, That this was not putting a case that might not happen, as he was almost treated once in the same manner, by a tradesman, who, through malice, and not knowing the privilege of a peer, had arrested his servant. Lord Sandwich spoke a good deal of the dignity of the House, and the absolute necessity there was of preserving their domestics; and concluded by recommending to the lords, to preserve their privilege, which was handed down to them for so long a period as seven hundred years.

Lord *Mansfield* said:*

My lords; when I consider the importance of this Bill to your lordships, I am not surprised it has taken up so much of your consideration. It is a Bill, indeed, of no common magnitude; it is no less than to take away from two thirds of the legislative body of this great kingdom certain privileges and immunities, of which they have been long possessed. Perhaps there is no situation that the human mind can be placed in, that is so difficult, and so trying, as where it is made a judge in its own cause. There is something implanted in the breast of man, so attached to itself, so tenacious of privileges once obtained, that in such a situation either to discuss with impartiality, or decide with justice, has ever been held as the summit of all human virtue. The Bill now in question puts your lordships in this

* From the Political Register, vol. 7, p. 80.

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very predicament, and I doubt not but the wisdom of your decision will convince the world, that where self-interest and justice are in opposite scales, the latter will ever preponderate with your lordships.

Privileges have been granted to legislators in all ages, and in all countries. The practice is founded in wisdom; and, indeed, it is peculiarly essential to the constitution of this country, that the members of both Houses should be free in their persons in cases of civil suits: for there may come a time when the safety and welfare of this whole empire may depend upon their attendance in parliament. God forbid that I should advise any measure that would in future endanger the state: but the Bill before your lordships has, I am confident, no such tendency, for it expressly secures the persons of members of either House in all civil suits. This being the case, I confess when I see many noble lords, for whose judgment I have a very great respect, standing up to oppose a Bill which is calculated merely to facilitate the recovery of just and legal debts, I am astonished and amazed. They, I doubt not, oppose the Bill upon public principles; I would not wish to insinuate that private interest had the least weight in their determination.

This Bill has been frequently proposed, and as frequently miscarried; but it was always lost in the lower House. Little did I think when it had passed the Commons, that it possibly could have met with such an opposition here. Shall it be said that you, my lords, the grand council of the nation, the highest judicial and legislative body of the realm, endeavour to evade, by privilege, those very laws which you enforce on your fellow subjects? Forbid it justice—I am sure, were the noble lords as well acquainted as I am with but half the difficulties and delays that are every day occasioned in the courts of justice, under pretence of privilege, they would not, nay they could not, oppose this Bill.

I have waited with patience to hear what arguments might be urged against the Bill, but I have waited in vain; the truth is, there is no argument that can weigh against it. The justice and expediency of this Bill is such, as renders it self evident. It is a proposition of that nature that can neither be weakened by argument, nor entangled with sophistry. Much, indeed, has been said by some noble lords on the wisdom of our ancestors, and how differently they thought from us. They not only decreed that privilege should prevent all civil suits from proceeding during the sitting of parliament, but likewise granted protection to the very servants of members. I shall say nothing on the wisdom of our ancestors; it might perhaps appear invidious, and is not necessary in the present case. I shall only say, that the noble lords that flatter themselves with the weight of that reflection, should remember, that as circumstances alter, things themselves should alter. Formerly it was not so fashionable either for masters or servants to run in debt as it is at present; nor formerly were merchants and manufacturers members of parliament, as at present. The case now is very different, both merchants and manufacturers are, with great propriety, elected members of the lower House. Commerce having thus got into the legislative body of the kingdom, privilege must be done away. We all know that the very soul and essence of trade are regular payments; and sad experience teaches us, that there are men, who will not make their regular payments without the compulsive power of the laws. The law, then, ought to be equally open to all; any exemption to particular men, or particular ranks of men, is, in a free and commercial country, a solecism of the grossest nature. But I will not trouble your lordships with arguments for that which is sufficiently evident without any. I shall only say a few words to some noble lords, who foresee much inconveniency from the persons of their servants being liable to be arrested. One noble lord observes, that the coachman of a peer may be arrested while he is driving his master to the House, and consequently he will not be able to attend his duty in parliament. If this was actually to happen, there are so many methods by which the member might still get to the House, I can hardly think the noble lord to be serious in his objection. Another noble peer said, that by this Bill one might lose their most valuable and honest servants. This I hold to be a contradiction in terms; for he neither can be a valuable servant, nor an honest man, who gets into debt, which he neither is able nor willing to pay, till compelled by law. If my servant, by unforeseen accidents, has got in debt, and I still wish to retain him, I certainly would pay the debt. But upon no principle of liberal legislation

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whatever, can my servant have a title to set his creditors at defiance; while for forty shillings only the honest tradesman may be torn from his family, and locked up in gaol. It is monstrous injustice! I flatter myself, however, the determination of this day will entirely put an end to all such partial proceedings for the future, by passing into a law the Bill now under your lordships' consideration.

I now come to speak upon what, indeed, I would have gladly avoided, had I not been particularly pointed at for the part I have taken in this Bill. It has been said by a noble lord on my left hand, that I likewise am running the race of popularity. If the noble lord means by popularity, that applause bestowed by after ages on good and virtuous actions, I have long been struggling in that race, to what purpose all-trying time can alone determine; but if that noble lord means that mushroom popularity that is raised without merit, and lost without a crime, he is much mistaken in his opinion. I defy the noble lord to point out a single action in my life where the popularity of the times ever had the smallest influence on my determinations. I thank God I have a more permanent and steady rule for my conduct—the dictates of my own breast. Those that have foregone that pleasing adviser, and given up their minds to be the slave of every popular impulse, I sincerely pity; I pity them still more, if their vanity leads them to mistake the shouts of a mob for the trumpet of fame. Experience might inform them that many who have been saluted with the huzzas of a crowd one day, have received their execrations the next: and many, who by the popularity of their times have been held up as spotless patriots, have, nevertheless, appeared upon the historian's page, when truth has triumphed over delusion, the assassins of liberty. Why then can the noble lord think I am ambitious of present popularity, that echo of folly and shadow of renown, I am at a loss to determine? Besides, I do not know that the Bill now before your lordships will be popular; it depends much upon the caprice of the day. It may not be popular to compel people to pay their debts; and in that case the present must be a very unpopular Bill. It may not be popular neither to take away any of the privileges of parliament; for I very well remember, and many of your lordships may remember, that not long ago, the popular cry was for the extension of privilege; and so far did they carry it at that time, that it was said that privilege protected members even in criminal actions; nay, such was the power of popular prejudices over weak minds, that the very decisions of some of the courts were tinctured with that doctrine. It was undoubtedly an abominable doctrine: I thought so then, and think so still; but, nevertheless, it was a popular doctrine, and came immediately from those who are called the friends of liberty, how deservedly time will show. True liberty, in my opinion, can only exist when justice is equally administered to all; to the king and to the beggar. Where is the justice, then, or where is the law that protects a member of parliament more than any other man from the punishment due to his crimes? the laws of this country allow of no place nor no employment to be a sanctuary for crimes; and where I have the honour to sit as judge, neither royal favour nor popular applause shall ever protect the guilty.

I have now only to beg pardon for having employed so much of your lordships' time; and am sorry a Bill fraught with so good consequences, has not met with an abler advocate; but I doubt not your lordships' determination will convince the world that a Bill calculated to contribute so much to the equal distribution of justice as the present, requires with your lordships but very little support.

The Bill was passed on the following day.

May 9. Lord Denbigh made a complaint to the House of a breach of privilege having been committed by the printer of the London Evening Post, who had printed the proceedings of that House. The printer was defended by the duke of Richmond, the earls Temple, Albemarle, and Shelburne.

The same day lord Sandwich made a complaint of a breach of privilege having been committed by the printer of the London Packet, who had printed the Lords' Protest. The printers were ordered to be taken into custody, but they absconded until the end of the session.

Motion in the Lords for an Address to the King to dissolve the Parliament.] May 14. The Earl of Chatham moved, "That an humble Address be presented to his Majesty, most dutifully and most earnestly beseeching his Majesty, that, in the

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dangerous state wherein his kingdoms are involved from the high dissatisfactions generally prevailing at home, and from the most alarming disorders which have unhappily manifested themselves in his American dominions, his Majesty will, in his great wisdom and necessary care to prevent more fatal mischiefs, be graciously pleased to take the recent and genuine sense of his people, by dissolving this present parliament, and calling, with all convenient dispatch, a new parliament." He stated the public discontents in England, Ireland, and America: affirmed that the people had no confidence in the present House of Commons, who had betrayed their trust; and shewed, from the situation of public affairs, the great necessity of having a parliament in whom the people can place a proper confidence.

All arguments were in vain: and the debate having lasted till nine o'clock, the court lords called for "The question!" and put a negative upon it.*

Debate in the Commons on an Address to the King upon the Disturbances in America.†] May 8. Governor Pownall brought forward his motion. The commissions of sir Francis Bernard, lord Loudon, and general Gage, and some Messages of the Assembly of Boston, having been read,

Governor *Pownall* rose and said:

Sir; the papers which you have heard now read, contain the state of his Majesty's government in America. That state his Majesty has been pleased to recommend to our consideration. We cannot on this occasion but observe, with entire satisfaction, that constitutional communication which his Majesty hath always maintained with his parliament, in every matter that concerns the state; and I hope we shall mark our gratitude, by expressing our unfeigned thanks in the strongest terms of acknowledgment.

When his Majesty calls upon us to consider the state of his government in America, we must carefully distinguish that we are not called upon to execute; that we, his Majesty's subjects, here within the realm, are not called upon as parts of a collective sovereign, to exercise the sovereignty of this kingdom over our fellow-

* Written orders were this day issued to the several door-keepers to admit on no account whatever any persons but peers' sons and members of the House of Commons. These orders were issued in consequence of a motion made by lord Denbigh for that purpose.

† "The state of affairs in America had not yet been entered into, though they had been particularly recommended by the Speech from the throne, and seemed to be one of the great objects which required the utmost attention and maturest consideration of parliament. The account which had been received of the late alarming riot in Boston, between the soldiers and town's people, and the consequence that followed, of the two regiments that were stationed in the barracks there being under a compulsatory necessity of retiring from the town, and going to Castle William, without any order from government for so doing, seemed to make this matter so urgent, as not to admit of any delay, before some conclusive measures were taken upon it; and the time pressed the more immediately, as a speedy prorogation was the natural consequence of the season.

"The ministry, however, were very shy and tender upon this head, and seemed to wish rather to trust to a temporizing conduct with the colonies, and the hope of profiting by their disunion or necessity, than to lay open a series of discordant measures, which, however the separate parts might be defended by the immediate plea of expediency at the time, could bear no critical test of enquiry, when compared and examined upon the whole.

"However this might have been the principle upon which American affairs were suffered hitherto to lie dormant, notwithstanding the recommendation from the throne, it was by no means satisfactory to those who had opposed every part of the conduct of administration with regard to America. A motion was accordingly made (May 8) for an Address to the throne, setting forth the disputes that had arisen among the several governors and commanders, in almost all the colonies, since the appointment of a commander in chief.

"This motion had the usual fate of those made by the minority. It did not, however, prevent other steps upon the same subject. A set of Resolutions were proposed, (May 9), by which the whole ministerial system for several years past, with relation to America, was taken into consideration. All the contradictory instructions to the governors were canvassed, and their inconsistency and ill effects pointed out. Taxes imposed—repealed—imposed again, and repealed again. Assemblies dissolved—called again; and suffered to sit and proceed to business without disavowing or discountenancing the measures which had procured the former dissolution. Promises made to the assemblies, that certain duties should be repealed, and taxes taken off, which were unwarrantable, of dangerous consequence, and a high breach of privilege; and that it was equally derogatory from the honour of the crown, and the freedom of parliamentary deliberations, to have its faith pledged to the performance of such promises. Troops sent—driven out—violence and sub-

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subjects in other parts of the empire without the realm.

When his Majesty recommends this matter to our consideration, we must not imagine that we are called upon to make arrangements, and to form establishments of government—it is the sole right, the sole power of the crown to do this; it is the duty of the crown.

When his Majesty recommends this matter to our consideration, we must not take it up as though we were called upon to make laws for the interior conduct of the executive power in these colonies. The assembly of each is, within their respective jurisdiction, competent to this purpose; and has in its hands the full power of all the means to this end.

This reference calls upon us, as the supreme sovereign council of control throughout the whole empire, to consider what powers of government the crown can and ought to grant, to the dependencies of the realm;—what form and power of government the British subject in those parts ought to be governed by;—what powers are granted, both civil and military; and what have been the arrangements made, and measures taken, for administering and executing those powers. This reference opens to us a point of consideration, the most important, the most interesting, and essential, which ever came before parliament; a point on which the continuance of the structure of the empire, in its several parts, depends at this moment.

We ought to proceed by examining matters of fact, and matters of right: by stating and representing, in the most humble and respectful manner, these matters as they appear to us; and by giving our true and faithful advice to his Majesty thereupon.

If the King by those powers of government which he has delegated to his servants in America, has not been able to restrain his subjects there within the line of duty, "it will be found (as sir William Temple says) a dangerous thing to have granted such powers of government out of the king's hands, and to have done so little to support those who are entrusted with them."

If the crown has been misinformed as to facts, or ill advised in matters of opinion, we ought to take those measures that may rectify and correct such errors. If we ourselves, judging too hastily in matters of fact, or too warmly in matters of opinion, have advised his Majesty, upon suggestions of treasons, or misprision of treasons, committed in America, to direct that the persons suspected of those crimes should be sent from thence to be tried here within the realm; if while his Majesty has not seen proper, or thought it advisable to carry into execution our advice, whilst, on the other hand this advice, held out as our opinion, has spread terror and alarm throughout that continent: if while this advice is thus held forth as our opinion, every inhabitant to a man considers such doctrine as tending to an absolute disfranchisement of his personal liberty; and every assembly, without exception, has come to resolutions directly contrary to this opinion, and in affirmance of their political rights—it becomes not only a point of honour in us, but does highly import our dignity, to consider on what ground and in what light we stand. We ought not to suffer ourselves to be used as the ministers of vengeance; we ought not to suffer ourselves to be held out as an object of odium—nor to risque our being committed by unmeaning menaces, as an object of terror to our fellow subjects. We ought therefore to recall this advice by some act of our own. But as I hope this matter will be taken up by some abler man, and as I shall confine my reasoning, and my motion to another point, I have only mentioned this, to raise the attention of gentlemen to it.

If any of his Majesty's ministers have,

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mission alternately made use of.—Treasons charged, adopted by parliament, not proved, nor attempted to be proved; or, if existing, not attempted to be detected and punished; an insult on the dignity of parliament, and tending to bring either a reflection on its wisdom and justice, or to encourage treasons, and treasonable practices, by not carrying into execution the measures recommended by parliament.

"All these Resolutions were rejected; nor did administration enter much into a discussion or refutation of the matter or charges which they contained. The general arguments of the turbulence of the Americans, the disposition of the colonies to disclaim all dependance on the mother-country, the necessity of supporting its authority and the dignity of government, and the right of the crown to station the troops in any part of the dominions, together with the necessity of their being employed to support the laws, where the people were in little less than a state of rebellion, were those principally made use of. There was nothing pleasant in the view of the conduct of American affairs; and administration aimed at getting rid of the discussion as soon as possible, and put a negative on, or postponed by previous questions, all these Resolutions." Annual Register.

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by secret narratives, which have been suppressed among a few, made suggestions of treasons, or misprisions of treasons, and have informed his Majesty, that his people in America will not be subject to lawful authority, whilst the people themselves on the other hand complain that they think themselves oppressed by unlawful authority—this becomes the point in the state of his Majesty's government which most deserves our very serious consideration. If it be true, that the subject in America does at this hour hesitate and doubt on the terms of his obedience, we ought to enquire, what strange cause could have produced so strange an effect—so strange and total a change in the spirit and temper of as loyal and affectionate subjects as any his Majesty has within his dominions, who, until this hour, knew no bounds to their loyalty.

As the people of the Massachusets Bay are those more particularly complained of, and as some late events point our immediate consideration more especially to these people—as I knew them in their better days—as I had the honour to be employed in his Majesty's service when the state of his government there was in a very different situation—as I never can suspect the loyalty of this people, or conceive them to be disaffected to this country, I hope it will not be thought impertinent, nor foreign to the matter, if I speak a few words in behalf of this people.

The duty of a colony, is affection and love for the mother country: here I may affirm, that in whatever form and temper this affection can lie in the human breast, in that form, by the deepest and most permanent impression, it ever did lie in the breast of this people. They have no other idea of this country than as their home; they have no other word by which to express it, and till of late, it has been constantly expressed by the name of home. That powerful affection, the love of our native country, which operates in every breast, operates in this people towards England, which they consider as their native country: nor is this a mere passive impression, a mere opinion in speculation —it has been wrought up in them to a vigilant and active zeal for the service of this country.

Were I to mention every instance of this, upon every occasion, I must recite the history of that province. Some of them I will however beg the indulgence of the House, to select and mention. So long ago as the year 1711, when England meditated an expedition against Quebec, the aid that this province gave in forwarding, and by acting in this expedition, was the reason that it was carried so far as it was, though it was not carried to success. The debt which the province contracted in consequence of its vigorous efforts on that occasion, and a depreciating paper currency, in consequence of that debt, were the first causes of the decline of that flourishing province. Nova Scotia was in name annexed to the province of Massachusets Bay; and it is owing to the support and protection which it received from that province, that it continued to be, and is at this day, a part of his Majesty's dominions.

I scarcely need remind this House of the important services of this province, in their taking Louisburg in the year 1747. That service was not only important by the acquisition it made, but by putting into the hands of this country an object which enabled it to negociate and conclude so advantageous a peace.

At the beginning of the last war, it was owing to the prompt and active zeal of this disloyal, disaffected province, in promoting the design, of an expedition against Beau Sejour, and joining his Majesty's troops in that expedition in which that fort was taken, that his Majesty's dominions were secured in that quarter, and his forces enabled to act where the service did more immediately call for them.

It was the same prompt and active zeal which led this province—this disloyal and disaffected people—to propose the united expedition against Crown-Point; to engage in it with that zeal, which gave example to the rest of the provinces and colonies concerned; and was one of the principal springs of that spirit with which it was carried through. I can speak with knowledge and certainty on this matter; as before I had the honour of being employed in his Majesty's service, I was by this province delegated to negociate that union; and I can bear testimony to the zeal with which they, and every other province, engaged in it. The whole world will bear testimony to the spirit with which the business was executed. The success of this expedition gave the first check to the French arms, and was the first fruits of our succeeding glory.

Being able, also, to bear testimony to the spirit with which they set the example to the whole continent of America, in

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raising troops at the requisition of the crown, to join his Majesty's forces in the service of this country, I ought to mark their uncommon zeal on that occasion. They were required to raise but 2,300 men, as a quota of 7,000; but such was their zeal, that instead of 2,300, a quota of 7,000, they raised, armed, clothed, and paid 7000, as their own quota; and kept up this number of men effective, during the whole war, as the certificates of the commanders in chief have manifested; besides manning and arming their own forts, at their own expence, upon the borders of this frontier province. They kept up also a 20 gun ship of war, and an armed sloop for the protection of the trade in those seas. Ever attentive and ready to comply with the requisitions of the crown, they did, upon such desire being signified to them, raise 300 of their best seamen, and send them to recruit his Majesty's navy: the bounty money and pay being their own expence. And for these expences, they raised, during the war, 80,000*l.* per annum.

There is another service, which, though the occasion never called for it, yet was in intention; and from the weight and influence of those who were consulted, and knew the spirit of the people, I may venture to say, would have been performed. 'Haud incerta pro certa habeo.' I speak of what was plotted and set down. When it was apprehended that the French might invade England, and land a body of troops in it, there was a design amongst those who had an authority and lead with this people there, and who would have been able to have led them into the execution of it—there was a design to propose the bringing over to this country a body of men, to the assistance of the mother country, which they call their home; and if the French had actually landed any troops on English ground, this disaffected, this disloyal people, would have come to the assistance of their parent country, this, their home; the native country of the colonies. But, what is the case now, and how are matters changed? Under an idea, that this people cannot be recalled to a sense of lawful authority, we are sending troops there, to insure their obedience, and to preserve their union with us.

If there be any change in the temper of this people, as I am afraid is too melancholy a truth, and too clear to be denied—if there be any change in their confidence towards government, any suspicious and jealous guarding of their rights against the administration of that government; I will fairly tell you what is the cause. Apart the unhappy disputes on the matter of taxation, they have doubts conceived of designs to alter their civil constitution. The suspension of the Assembly of New York, because that, as a deliberative body, would not will as we had willed—would not register, as their will, our acts—has spread an alarming apprehension throughout the continent, that their assemblies are no longer considered, as what they had always, hitherto, considered themselves to be. The order sent for dissolving other assemblies, if they did not rescind resolutions, which, in their deliberative capacity, they had come to, confirmed them in this apprehension. Ideas thrown out of altering the council at Boston spread this alarm still wider; and, on this occasion, I will beg leave to say a few words to the state of that council.

It has been represented as totally democratic; formed at and directed by the will of the people: but Sir, when I state to you the constitution of that board, you will see that as, on one hand, it hath more authority within the province where it exists, than any other council, in any other part of his Majesty's American dominions; so it hath always shewn more attention and readiness to comply with every matter, wherein the honour or interest of his Majesty's government in that country could be concerned, than any other council, formed upon any other plan; and from that authority hath been more efficient in promoting it.

This body is, indeed, elective—but it is elected, partly by the new representatives of the people, partly by itself, and partly by the governor, so far as his having a negative over all the elections goes. The council consists of 28 members; the assembly of about 100. In this election every one will see, that the council will be (as in fact they always are) nearly unanimous in their own interest: they must also see, that even a minority of the representatives, joined to these, must have the effect of giving great weight to the crown in the election—which, in fact, it always has had: it will therefore be seen, as I said, that although the council acquire an authority in the province among the people, from its being elective; yet, from the nature of that election, the governor must have more weight and interest in it, than any other governor, in

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any other council on the continent. When I have thus explained it, and I speak from experience, I think I shall be justified in saying, that it was a wise and political institution—and, moreover, when I add, that it was formed by the greatest statesmen, and ablest lawyers, who lived at the time of the Revolution; I think I may trust, that the statesmen and lawyers of this day will not hastily come into any alterations of it.

There is, Sir, another matter, which has given cause to their doubts, as to designs on their civil constitution—and that is, your acts of parliament, purporting to raise a revenue for the support of government in that country, independent of the assemblies there—which the people think has a direct tendency to render all their assemblies useless.

Whilst their minds are oppressed with these doubts, they apprehend, and think they feel a military power established among them, independent of, and paramount to, their civil jurisdiction; by which (if they had no apprehension of any design to alter their civil constitutions) they do think it is meant to throw a kind of military net over them. And have they not foundation, Sir, for these fears? When they look on those governments on the continent of Europe, which have already lost their liberties by this very mode of government, have they not some cause of fear, some cause of apprehension? When they see a military power established within the jurisdiction of their government—neither depending for its establishment on the will of the community, nor exercising its powers by command derived from the supreme authority of that jurisdiction, they think this military body foreign to their community, and brought upon them by force of external power.

If we look to the provinces, called 'Les Etats du Pais,' in France, we shall find the civil constitution of these provinces as perfect in all their forms of legislature, as complete in all their modes of justice, and as entire, as to their civil jurisdiction, as the constitution of Great Britain is at this day. If we look to Hanover, or any of the countries in Germany, we shall see the same thing. And yet, Sir, by separating the power of the supreme military command, from that of the supreme civil magistrate, in the execution of the force of government, and keeping it a standing force, established without communication with the will of the community, the civil constitution of those provinces is palsied to annihilation; and the military is the only government that acts and executes.

Whatever effect lesser causes may have on the minds of the people in that country, this Sir, is the great, the immediate cause of those doubts and suspicions, with which they mete out their obedience: to this point, therefore, I shall confine my reasoning. It is for remedy in this matter that I shall point the motion which I shall have the honour to make. I shall state the powers granted by the several commissions, both to the governors of his Majesty's provinces, and to the military commander in chief; I shall state the arrangements and measures, by which the particular form of military command in America has been attempted to be established; I shall state the errors and dangers of those arrangements; the confusion, and what I think to be the unwarrantableness of this establishment; in order to fix the truth of this proposition, that some revision, some remedy, is necessary to matters as they now stand: and I shall then endeavour to direct the view of this House to that source from whence, to that channel through which alone, such remedy can flow.

I ought here, Sir, and I do beg leave to make apology to the gentlemen of the long robe in this House, for taking upon me to state a point of law, and desire their indulgence, whilst I endeavour to do it. Law hath neither been my study, nor was it my profession, and yet, Sir, that law which respects the state of our constitution, ought to be the study of every gentleman, who, by his situation, may have any share in the deliberative or executive part of the community. That law, which respects the state and powers of the crown, was my study: because, being commissioned by his Majesty, to execute his royal powers as his governor, it was my duty to act according to it: and, so far, Sir, I will consider it as my profession.

I ought, Sir, to make many apologies likewise to the gentlemen of the army, whilst I discuss this point, respecting their command: but, although I do not think it ever can be paramount to the supreme civil jurisdiction of any community, yet I should be sorry to see them placed in a situation, and subject to any commands, which are not consistent with their honour. I would have their situation safe, as it is honourable; and it never can be so, till the matters in this question be precisely determined and adjusted.

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That part of the community which is called the military, is the force of the community, with which a certain number of individuals are armed, for the purpose of maintaining the power of government within; and for protecting and defending it against any thing that may arise from without. This, in all free constitutions, must be inseparably annexed to the supreme civil authority; the supreme civil magistrate; who must have, not only a civil, but a military command over it. It is so, and ever has been so, in our constitution. This supreme military command has ever been inseparably annexed to the office of king; if I may use that expression. Before the Restoration, in 1660, this command was annexed to the crown, by the nature of the feudal tenures; and numberless are the acts of parliament for keeping it so annexed, under civil restriction and regulation. One of the principal views of Magna Charta itself goes to this point.

Since the Restoration, it became necessary, not merely because this matter had been disputed during the time of the troubles, but because the feudal tenures being taken away, it became, I say, necessary to make some specific declaration of this inseparable union of the supreme military and supreme civil in the same office: and, therefore, 12 Charles 2, does declare, "That the command and disposition of all the forces, forts, and places of strength, in all his majesty's realms and dominions, are in his majesty, and have ever been in his predecessors, the kings and queens of England." This never has been separated within the realm; and when his Majesty hath found it necessary, from the local circumstances of any part of his dominions without the realm, to grant powers of civil government to a lieutenant, or *Locum Tenens*, this supreme military command has always been inseparably annexed to that commission by which the civil powers were granted. It hath always and invariably been so in Ireland—always in his Majesty's colonies and plantations.

There is, indeed, one instance in Ireland, where king James (before he had manifested his designs in England) did attempt to separate the supreme military command from the office of his lieutenant in that country. He attempted to give the earl of Tyrconnell, his lieutenant general there, command, independent of, and superseding the command of his lord lieutenant. But he found it impracticable; and, therefore, to carry into execution the things he had in view, he superseded his lord lieutenant, the earl of Clarendon; and appointed the earl of Tyrconnell to be lord lieutenant in his stead.

King William, during the time of the rebellion in Ireland, and whilst the enemy were in possession of great part of that country, did, for three months, leave the army under a command independent of the lords justices; but the illegality, inexpediency, and danger of that arrangement, notwithstanding the war was not entirely ceased, appearing, he did, the moment the parliament met here in England, restore it to its proper union with the supreme civil magistrate; and the command was given again to the lords justices, and afterwards to the lord lieutenant.

But, whatever may be the effect of this question, in the abstract doctrine and theory of our constitution; whatever the reasoning, and the law upon which this union may be maintained, as not to be separated—I shall on the present occasion reason solely from fact, that by the civil commission, now in being in America, it is not separated; and that the practice of the present arrangements of command there, are not warranted by the military commission under which they act, but are assumed, either through mistake, or by instructions taken up upon the dangerous doctrine and position, that the King can separate these jurisdictions; can create two distinct, independent, incommunicable commands, within the same jurisdiction, and give precedence of command to the military.

Permit me, Sir, to state, that by the commission, the powers of government granted to his Majesty's governor of Massachuset's Bay (for I will state that case, as the events which call for this consideration, have taken rise therein) are powers granted in consequence of an office granted by charter—are powers granted in virtue of a trust: observe, then, what these powers are. They appoint the governor captain general, to execute the office and all things in due manner, as belong to that trust, according to the several powers and authorities of the office created by charter. He is empowered to levy, arm, muster, command, and employ, all persons whatever, residing within the province—to resist and repel all enemies, pirates, and rebels; and such to pursue, in or out of the limits of the said province; and if it shall so please God them to conquer and van-

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quish, to apprehend and take, and so taken, to keep alive, or, according to law, put to death—to erect and build forts, and the same to fortify and furnish; and to give command of the same, to such person or persons as to him shall seem meet; and the same again to dismantle or demolish, as he shall think fit: and to exercise law martial, for the ruling, ordering, and governing his Majesty's militia, and all his forces, forts, and places of strength within his province; and to do and execute all and every other thing, which to a captain general does, or ought of right to belong, as fully and amply as any other captain general doth, or hath usually done, according to the powers thereby granted: and to enable him to perform this said trust, all officers and ministers, civil and military, and all other inhabitants of the province and territory, are required and commanded to be obedient, aiding and assisting to him.

You see, Sir, this power is granted to him for the repelling and suppressing rebels; and yet, when there was a suggestion that the province of the Massachuset's Bay was in a state of rebellion, and troops sent there in order to maintain the civil authority, two governors successively declare, that they have no command over them. Notwithstanding you see that the command of all forts and garrisons within the province are given to the governor, and that he is entrusted with, and answerable for the defence of the same, yet a secretary of state, by his single letter, can give an order (which is supposed, in fact, to have its force) that general Gage shall take possession of the castle in the capital of the province of Massachuset's Bay: and he would have received command for all other forts and garrisons within the same, had their situation and circumstances been known. But I say, Sir, such command can be of no effect, and if it had come to me, I would not have obeyed it. A secretary of state's letter may attempt, but cannot supersede a command, cannot revoke a trust, created not only by a commission, but by a charter of government, both existing under the great seal. View the commission granted to the military commander in chief, you will see there that, although for the sake of maintaining ostensibly a general and collective command over all his Majesty's forces employed or to be employed in North America, it was thought necessary to grant a military commission under the great seal; yet you will find that the powers granted in that commission are general, not special, or, if I may so express myself, a kind of ordination, without a cure; for it neither grants to the commander in chief any of those special military powers which you have seen granted to the governor, nor does it revoke any one of the powers contained in the governor's commission. There is no clause of revocation in this military commission, respecting the powers of the governor; although, if such powers were meant to be superseded, such revoking clause would have been absolutely necessary: and you will accordingly find, that these military commissions, as they do supersede one another, do all successively contain such revoking clauses as to their respective powers.

This is the state of the several commands as they lie in the commissions. It will be impossible for me to state the arrangements of command that have arisen from subsequent orders and instructions, under powers which cannot affect these commissions. It will be sufficient for me to mark to you as evidence, from an original letter of the lords of trade, dated 1st March 1765, "That misunderstandings and disputes have arisen in almost every one of his Majesty's colonies in America, between the civil governor and military commanders, since the appointment of a commander in chief." It will be sufficient for me, upon the like ground of evidence, to state to this House, the complaints of the representative of his Majesty's subjects in the Massachuset's Bay, in great and general court assembled. This you have had read to you this day, from the papers upon your table.

This is the state of confusion amidst your commands; this the danger to which the people of that country think themselves reduced, by this military establishment: and this, Sir, whatever may have been the particular occasions or provocations that led to the late unhappy catastrophe at Boston; this is the true cause of all the mischiefs necessarily deriving from such arrangements. It is owing to this state of confusion, and inextricable danger, that you are now reduced to that situation, that you neither know how to keep your troops there, nor how to withdraw them.

I do not take upon me to advise, nor give any opinion, whether it be right to withdraw, or whether it be right to continue a military establishment there; but

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under the present arrangement of command, and present establishment, you are reduced to that unhappy state, that you neither can withdraw them, nor continue them.

If you had no government there but what derived its source from the power of the military, the troops being withdrawn, you have no government at all. If the troops are to be sent back with force sufficient to maintain this form of establishment, and that form is unwarrantable and unconstitutional—the people may be brought to that predicament, which will justify opposition, in every legal and constitutional method, to such establishment. If you proceed one step farther, you may drive matters to the extreme of a rebellion, or what, under such circumstances, would be called a civil war; let, therefore, ministers be careful, under so dangerous a crisis, what step they do take.

This representation of things, founded as it is in law and fact, does sufficiently establish the truth of that proposition which I intended to make appear, that matters are in such circumstances, that some revision and remedy is absolutely necessary, and I shall therefore, on that ground, propose the motion which I mean to make. But before I deliver it, I beg leave to obviate two answers, which I apprehend may probably be given to what I have said on this occasion.

It will be said, that the military establishment is conformable to the powers granted to the King by the Mutiny Bill; conformable to that Bill, I do affirm that the powers for punishing mutiny, and military offences, ought to be directed to the governor, or commander in chief, in each respective province for the time being. I appeal to the Act itself, on this occasion, taken either in the strict letter, or construed by the spirit of it.

It will be said, that all the arrangements which state military power as not obedient and subject to the civil, proceed upon a mistake in fact; for that they are subject to that power, and are bound to aid and assist it. In answer to this, I say, that is not the point contested. I know the civil command must go over, and supersede all military command whatever. But the point which I contest is, that the supreme civil magistrate, his Majesty's locum tenens, or lieutenant, must have, and has within the jurisdiction of his province, a military command over all forts, forces, and places of strength.

Having thus obviated the only arguments which I apprehend can be used against the position which I have laid down, having established the truth of the necessity of some remedy—I beg leave, Sir, by proposing the Address which I have in my hand, to direct the view of this House to his Majesty, from whence alone such remedy can come, humbly praying that he will be pleased to give directions upon the case to his ministers, which is the only channel through which such remedy can flow, for this House doth not draught commissions, make arrangements, or form establishments; it can only give its advice and counsel upon the nature of such, when referred to its consideration; and therefore, Sir, I beg leave to move,

"That an humble Address be presented to his Majesty, acknowledging with gratitude, that constitutional communication which his Majesty hath always maintained with his parliament, in every matter which concerns the state: to return our unfeigned thanks for that fresh proof which his Majesty is pleased to give of that spirit of his government by referring to his parliament, and by recommending to us the state of his government in America.

"To assure his Majesty, that in ready and dutiful compliance to his royal recommendation, we have entered into a serious and attentive consideration of this matter referred to us.

"With the most profound respect and deference, to represent to his Majesty, that we find, that misunderstandings and disputes have arisen, in almost every one of his colonies in America, between the civil governors and military commanders, since the appointment of a commander in chief.

"That we find, that in one of his Majesty's provinces, the representatives of his people in the great and general court assembled, have complained, that according to the arrangement of commands in America, there is a military power within the said province, without any check by the power of the civil government of the said province, and uncontroulable by the supreme executive power of the province, which they conceive to be, within the limits of the same, the just and full representative of the supreme executive power of the whole empire, in as full and ample manner as is the lord lieutenant of Ireland, or any other his Majesty's lieutenants in the dominions to the realm of Great Britain appertaining.

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"That we are of opinion, that this unhappy state of doubts and disputes has long called for some clear and explicit definition and adjustment of the respective powers and authorities, granted to the governors and commanders in chief of his Majesty's provinces and colonies, and to the military commanders in chief of his Majesty's forces in North America, and doth require some express directions and instructions as to the exercise of the said powers.

"And therefore most humbly praying his Majesty, that he will, with the advice of his privy council, be graciously pleased to give his directions for the examination of the several powers and authorities contained in the respective commissions granted, and in the respective orders and instructions issued to these several commanders, to the end that all such commissions, instructions, and orders, may be explained, corrected, and amended, in such cases wherein they clash and interfere with each other, or contain any powers or authorities that are not warranted by law, and the constitution."

Mr. *Beckford:*

Sir; the motion made by my hon. friend, has been explained so fully, and is so obviously founded upon reason, that I trust there is not an independent member in this House, but will heartily support it; even the servants of government themselves, must countenance it from shame, though they may not approve it from justice, and give to the appearance of right, what they deny to the reality. On this account, Sir, I shall not at present trouble you with arguments to support the propriety of my worthy friend's motion, but reserve myself, to answer any thing which may be urged against it, by placemen or pensioners; for such, notwithstanding the apparent wisdom of the measure, may prefer their paltry wages to the voice of conscience, or the circumstance of reputation.

Governor *Johnstone:*

Sir; if we look into the antient historians, Tacitus particularly, we shall find that the disputes which arose between the Roman pro-consuls in Africa, and the military lieutenants, sprung from the heterogeneous mode of giving the provinces a government, which was eternally at war with itself, and which, to be faithfully executed, could not but plunge the miserable inhabitants, either in revolt or destruction. If the pro-consul, for instance, behaved like a good magistrate, he had frequent occasions, occasions too as unavoidable as they were frequent, of checking the power of the military lieutenant; and, if the lieutenant acted like a brave soldier, there was no possibility of his living upon any reasonable terms with the pro-consul. In short, each claiming the superior power, the whole frame of their administration became unhinged, and the result, like our present disputes with the colonies, proved disgrace to the governors, and distraction to the people.

We need not, however, refer to these remoter æras of foreign nations, to shew that the same cause will necessarily produce the same effect, when a modern instance in our own annals, will point it out beyond the possibility of contradiction. King James the 2nd, Sir, on his landing in Ireland, endeavoured to make lord Tyrconnel commander in chief of the forces, independent of the lord lieutenant: but he found it utterly impracticable to effect this measure, for the reasons I have just assigned, and was therefore under the necessity of dismissing lord Clarendon from his lieutenancy, and of lodging the chief civil power with the chief military, in the hands of the same officer: lord Tyrconnel by this means became possessed of both, and though it did not save his master from ruin, it preserved something like order, while his authority was acknowledged in that kingdom.

Sir, there is a despotism in the nature of military government, which is utterly inconsistent with the liberal genius of our civil policy; and it may be truly said, that a soldier is the only slave existing under the British constitution; from the corporal to the commander in chief, all is the most unlimited command upon the one hand, and the most implicit obedience on the other; every idea of freedom is annihilated in the service. To render this service, therefore, independent of the civil magistrate, in a free country, is the highest absurdity in politics; military establishments were instituted to defend our civil rights, not to destroy them; they were instituted to be the creature, not the sovereign of the state; and the moment they counteract the purposes of their institution, that moment they become justly obnoxious to the community.

Having thus, Sir, delivered my opinion with regard to the general nature of mili-

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tary establishments, I shall now turn to the expediency of sending an armed force to the colonies, and call upon the most strenuous supporter of such a measure, to tell me any good effect which it is likely to answer? The people of Great Britain, Sir, from enjoying a power of regulating the American commerce, conceived that they had also a right of taxing American property, and therefore passed some laws for the purposes of raising a revenue upon the colonies. These laws by many are deemed illegal, and by all are acknowledged injudicious; yet to recover the colonists to their duty, who have complained universally of the acts in question, we send over a body of troops, as if the mere appearance of soldiers was to terrify Englishmen into any meanness, into any abject subjection: these troops remain in a principal province, for some time, and instead of calming the minds of the people, inflame them almost to madness: what, then, is to be done? Why, to send over more troops; as if we are to expect the affection of the colonies, the more we increase their discontent; and to think their murmurs will subside, as we aggravate the causes of dissatisfaction.

Indeed, Sir, if by sending over troops, we meant to employ them effectually; or if we had a design of engaging the submission of the Americans by spiritedly cutting their throats, some reason might be urged for this favourite child of administration; but when making war upon the Americans is actually making war upon ourselves; when the nation must incur a large expence in fitting out such an armament; and when the armament, if fitted out, must do a great deal of mischief, and cannot possibly effect the least good, I hope we shall pass the present motion affirmatively, and pursue a rational means of consulting our own prosperity.

Lord *Barrington*, before he began his argument on the question, endeavoured to explain away the account which governor Johnstone had given of the several disputes, and then by way of answer to what governor Pownall had said, in opening the nature of his motion, gave a superficial history of the first establishment of this commission, and of the necessity of one collected military command, which not having been disputed, was nothing to the purpose. He then said, that as disputes about this command had arisen, the governors received letters from a secretary of state to submit to the command in all cases where a brigadier was present, but that they might take the command where there was no brigadier. After a long office harangue, in which he said, that as there was no civil magistrate who would use the aid of the troops, it was best they should be withdrawn, and that they would be withdrawn: he concluded by allowing, that there was something defective in the law, as to the court martials; and that there were doubts in point of law, as to the nature of the establishment, but yet that the commission was legal; that this motion was not the way to get it rectified, and therefore moved to adjourn.

Mr. *Beckford* said, the noble lord's history of the military commission, which shewed how wisely and carefully it was drawn, and that it was legal, shewed the more strongly how illegal the proceedings of government upon it had been: the commission only contained general powers, no special powers, and did not revoke any of the powers given to the governor; but ministers had, under pretence of that general power, engrossed special power at their own arbitrary will; and had presumed, under this, to supersede charters and commissions, and all sorts of legal powers granted under the great seal of England: the commission was not complained of, but the assumption of illegal powers under pretence of this commission, so as to establish an illegal military power in America superseding the civil government there. He then shewed the consequence of those proceedings, and of setting a separate military command within a civil jurisdiction, by explaining the late melancholy transactions at Boston; that while the troops and the inhabitants were actually engaged, and the troops were firing upon the inhabitants, the governor declared he had no power to order the troops to withdraw. He then explained the purport of the motion, as tending to quiet the minds of his Majesty's subjects in America, and to establish his government there on legal and efficient footing, and called upon the ministry to make their objections, if they could make any; if not, to let the Address go to his Majesty.

Lord *Barrington* rose to explain; and declared, that as doubts had arisen in point of law as to the arrangement of command made by ministry in consequence of the military commission, and as to the

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present establishment, his Majesty had already ordered this matter to be laid before the Attorney and Solicitor General, to consider first of the point of law; and that then it was intended to revise and rectify every matter which should be found inexpedient; that every thing which the Address did or could desire, was doing, and intended to be done, and that therefore it was unnecessary, and after this declaration not quite proper.

Colonel *Barré* said, that after the declaration of the noble lord, he should have contented himself with giving a silent vote on this occasion; that there were many points which, from the nature of government, were better not stirred, had better never been called in question; that during the whole war, the Americans, whatever their opinions were of this military command, acted under it zealously, and submitted to it willingly, and never called it in question: but that the conduct of ministry, and the use which they wished to make, if even doubtful, was such as called into question, every exertion of the powers of government; and the matter being now necessarily brought forward, he should speak freely upon it. He said he would not quite agree with the noble lord, nor congratulate government that the troops were withdrawn in the manner they were; nor was he so ready to decide upon the expediency of what was next to be done, as that noble lord seemed to be. However, he was glad to hear that the ministry, after letting this matter of the military commands continue for five years in a state which they confessed to be wrong, had now, within this month or six weeks, begun to think it was time to reconsider it. That as they had let it continue these five years, they would have let it continue for ever, if the gentleman who now made the motion had not, above two months ago, given notice that he would lay this matter before parliament. That if any good should arise from the reconsideration of this matter, which they had now pledged themselves to make, they owed it to that gentleman, who first raised them from that stupor under which they suffered themselves to lie for five years together, hearing and seeing every day the evil consequence of this state of things, and yet never attempting to rectify that which they acknowledged to be wrong, and to have long called for some express adjustment. That as they had shewn that they dared to continue so long under such dangerous errors in practice, nobody could say how much longer they would venture to continue under the same, and to what lengths they would suffer these evils to run, if they could but for this day get rid of the motion; that therefore it became now, by this declaration, so much the more necessary. He then shewed the impropriety and danger of giving the troops there a power as executors of our laws. He said, if troops were once suffered to consider themselves as the executive power, they would soon become the legislative. He then, with a masterly knowledge of the military service of America, shewed that the whole disposition of the army there was perverted to where it could be of no service; and that every service which was necessary for the protection and security of that country, was either neglected or inadequately provided for. He concluded, by expressing his sense of the benefit which must arise to government itself, to the colonies, to the service, from this motion; of the benefit which appears had arisen from the notice given of it by the gentleman who moved it two months ago.

General *Conway* gave a long and particular account of the nature of the military service, and of the disposition of the American army: he allowed that colonel Barré's objections were valid, but rested his answer on the difficulties of government, on account of expence and other reasons, in not being able to execute all; that perhaps it might be better if it could be done. As to the motion, there were certainly many and great matters of difficulty and doubt in the state of the American military arrangements and establishments; but as all persons on all sides were agreed, that some revision and rectifying of this matter was necessary; as it was now so solemnly declared, that orders were given to lay this matter before the law officers of the crown, and to revise and to rectify, in short, to do every thing that this Address could desire, he was on that account, and on that only, against the motion, as after that declaration, he thought the carrying up such an Address must be disrespectful to his Majesty.

Sir *George Saville* said, that as the matter required by the Address proposed was thus, on all sides, allowed to be so proper, so necessary: as there was nothing either in the matter of the motion, or in the

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manner of bringing it forward, to which any one had, or could object; as ministry by their declaration seemed to grant the thing required, and said that was doing what the Address required to be done, the question was now drawn to a short issue: that the public was much obliged to the worthy gentleman who moved it, in bringing the matter thus far to this issue; but he could not but observe, that as it was said that this question had been referred to the great law officers of the crown, who were also members of the House, it seemed somewhat peculiar, and particularly marked, that these gentlemen should not be present to assist the House with their advice, when it was known that the discussion of this point was to come on; that sufficient notice had been given; and that after a day was fixed, it had been put off four times successively; that these gentlemen might have had time to consider it; that it was plain there was no opinion then formed, which these great lawyers would venture to give; that ministry had not yet come to any decision; that as the matter had slept with them so long, he approved the motion, not only as originally putting the ministry on the consideration, but as now necessary to quicken them and their lawyers.

The question for adjournment was put, and the ministry being considered as having given up the point, it was carried without a division.

Debate in the Commons on Mr. Burke's Resolutions relating to the Disorders in North America.] May 8. The House was moved, That so much of his Majesty's most gracious Speech to both Houses of Parliament, upon the 10th of March 1768, as relates to his Majesty's colonies in North America, might be read. And the same was read accordingly.

The House was also moved, That the preamble of an Act made in the 7th of his present Majesty's reign, intituled, 'An Act for granting certain duties in the British colonies and plantations in America; for allowing a drawback of the duties of customs, upon the exportation from this kingdom, of coffee and cocoa nuts, of the produce of the said colonies or plantations; for discontinuing the drawbacks payable on china earthen ware exported to America; and for more effectually preventing the clandestine running of goods in the said colonies and plantations;' might be read. And the same was read accordingly.

The House was also moved, That so much of his Majesty's most gracious Speech to both Houses of Parliament, upon the 8th of November 1768; as relates to his Majesty's colonies in America; might be read. And the same was read accordingly.

The House was also moved, That the copy of a Letter from the earl of Hillsborough, to governor Bernard, dated Whitehall, April 22, 1768: and also, Copy of circular Letter to all the governors on the continent of America, except Massachusets Bay, East Florida, and Quebec, Whitehall, April 21, 1768: and also, Copy of governor Bernard's Message to the assembly: and also, Copy of the assembly's Answer thereto, and of his Message to them, of the 24th of June 1768; which copies were presented to the House, upon the 28th of November 1768; might be read. And the same were read accordingly.

The House was also moved, That the Resolutions of both Houses of Parliament of the 8th of February, in the last session of parliament, relating to the Massachusets Bay, in North America, together with the Address of both Houses of Parliament thereupon, might be read. And the same were read accordingly.

The House was also moved, That the copy of a circular Letter from the earl of Hillsborough, to the governors in America, dated Whitehall, 13th May, 1769, might be read. And the same was read accordingly.

The House was also moved, That so much of his Majesty's most gracious Speech to both Houses of Parliament, upon the 9th of May 1769; as relates to the Disturbances in North America, might be read. And the same was read accordingly.

The House was also moved, That the Extract of lord Botetourt's Speech to the council and house of burgesses of Virginia, on the 7th November 1769; with their Addresses in answer thereto; might be read. And the same were read accordingly.

The House was also moved, That so much of his Majesty's most gracious Speech to both Houses of Parliament, upon the 9th of January last, as relates to his Majesty's colonies in America, might be read. And the same being read accordingly:

Mr. *Edmund Burke* rose, and said, he should, from the state of things which

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these papers opened to the House, lay before them the state of measures, and the plan (if such could be so called) of administration, which his Majesty's ministers had attempted to execute, from the fatal hour, since they left that ground of peace on which the affairs of the colonies were established after the repeal of the Stamp-Act.

He said, the declaratory law did sufficiently establish the sovereignty of this country over its plantations and colonies. But that the wise ministers who succeeded, did not think this sufficient, without some exercise of the power of taxing, such as might secure the dignity, as well as sovereignty of government, by which, at the bottom they meant the doing something to save the honour of particular persons.

That it was very extraordinary, that the great person, who was one of the foremost for repealing the Stamp Act, and that too on the principles of the Americans themselves, should, when he found himself at the head of the ministry, be the very person to adopt the measure of inventing a new system of taxes upon the colonies.

And it was also particularly unfortunate, that when a measure, so likely to meet with every obstruction and opposition in America, was adopted, no one precaution or step was taken to secure the execution of it, neither of policy, nor power.

And, to add to the fatality, the execution was left to hands which, in the sequel of events, have proved the most unfit for it of any that could be employed.

The hon. gentleman then prefaced what he had to say, with begging, that he might not be understood to mean any thing personal against any man, especially the minister that might appear to be most affected by his conclusions; that he had really a personal regard for the noble lord; that he wished rather by pointing out errors, to lead to redress for the future, than to punishment for the past; yet, upon the other hand, if upon the state of the enquiries, things and actions, which were connected with persons, did appear to deserve the animadversion, the censure of the House, he should adhere to what was right for the public, be the persons whomsoever, or whatsoever they may.

The hon. gentleman then opened, with infinite wit and raillery, the plan of dignity adopted by the ministers, and shewed how it was pursued through every transaction; from the proposing the new Revenue Act for America, to their partial repeal of it in this session. He began first with the measures taken, when the parliament was persuaded to pass an Act for suspending the Assembly of New York, and shewed, that instead of producing a submission from that assembly, on which the dignity of government was to be established, it produced resolutions in that assembly, against both the dignity and authority of this government. The Quartering Bill, which this suspending Act was meant to enforce, was never submitted to; and the whole effect was, that the act of parliament was now no longer in force, but the resolutions were, and have had their effect.

As the Revenue Acts produced in America nothing but resolutions against our power of taxing, the next step of dignity was a letter of a secretary of state, ordering, with a menace, in case of refusal, the assembly at Boston, from whence the measure of resolving first took rise, to rescind all such resolutions, and directing the governors of the other provinces, by another and circular letter, to induce their assemblies to treat the Boston resolves with the contempt they deserved. Here again our dignity was dishonoured. The Boston assembly, who would not rescind, was dissolved, and was permitted to sit again without rescinding; and the other assemblies treated the secretary of state's letter with contempt.

These wise steps of policy failing, and the people of America growing every day more and more confirmed in their resolutions, and more and more inflamed, several acts of violence broke out. Upon this state of things, the crown was now, as confessedly unable to carry its measures into execution, advised to call in the aid of parliament, to tell parliament, that it could not govern those ungovernable people. The parliament was persuaded to come to some threatening resolves, and to give back the curious advice of sending for the subjects of America, suspected of treason and misprision of treason, to England, under the authority of an old Act of Henry 8, to be tried here. These threats never were, as it was known they never could be carried into execution. They exposed the weakness of parliament, they rendered its power abhorred, and reduced the dignity of government to contempt.

These great strokes of policy not succeeding, the plan took a firmer tone, and, upon an account received of some breaches of the peace, and some affrays with the

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custom-house officers, a fleet and an army were sent to Boston, to secure not our dignity, but government itself, as was given out.

See now the issue of this: the civil magistrate, who was said to call for the aid of these troops, would neither receive nor quarter them; would not accept, nor use their aid; so that, after the parade of the terror was over, and after the ministers found they could not frighten the people, they withdrew part of this armament, and the rest are now drawn out of the town.

So that, on the upshot, it appears, that instead of having established the dignity of government, you have now shown, by the attempt, that you have lost the power of effect, either to suspend or to prorogue, or even to induce the assemblies to rescind their resolves against your power.

Every measure of crude impracticable vigour, you abhorred. Every measure of lenity, (proved to be the lenity of a braggart forced to submit,) has brought you into contempt. At the very time that parliament was to be persuaded to take up the menace of Henry the 8th's Act, ministry were preparing a plan of submission; and when they found that the terms of their submission would not be accepted by the Americans, the ministers, by another circular letter, upon the plan of lenity, laid the grounds for their friends in America to negociate a reconciliation; pretending themselves, in the mean while, to hold up their heads high under the authority of parliament, which could not submit; and yet, if their friends could have carried any one point that would have served for ostensible ground to parliament, parliament was to be persuaded to repeal as they should recommend. And lastly, although the Americans could not be induced to do even this, yet parliament was persuaded to repeal article for article, as the ministers had promised, and vowed they should, and not a jot further.

So that now, not only dignity, but government and power are all brought to nought. Every instrument is gone; there is neither civil nor military. The malignity of your will is abhorred; the debility of your power is contemned, which ever has been, and is now the case of a government without wisdom.

These measures, and this state of things, do not only deserve, as we have expressed it, our most serious consideration, but so far as it shall appear, that this state of things have been brought on by those measures, the measures do surely deserve our censure; and upon this ground the hon. gentleman said he should propose Resolutions of censure of the several measures which had been lately taken. Which resolutions were as follow:

1. "That, in several of his Majesty's colonies in North America, Disorders have of late prevailed, prejudicial to the trade and commerce of this kingdom, and destructive to the peace and prosperity of the said colonies.

2. "That a principal cause of the Disorders which have lately prevailed in North America, hath arisen from the ill-judged and inconsistent Instructions given, from time to time, by persons in administration, to the governors of some of the provinces in North America.

3. "That the directing the Dissolution of the Assemblies of North America, upon their refusal to comply with certain propositions, operated as a menace injurious to the deliberative capacity of these assemblies, and tended to excite discontent, and to produce unjustifiable combinations.

4. "That the Assemblies of North America having been dissolved for not disavowing or discountenancing certain combinations, and the suffering new Assemblies to sit without disavowing or discountenancing the said combinations, was a proceeding full of inconsistency, and tending to lower, in the minds of his Majesty's subjects in America, all opinion of the wisdom and firmness of his Majesty's councils.

5. "That it is unwarrantable, of dangerous consequence, and an high breach of the privilege of this House, to promise to the Assemblies in North America the interposition or influence of his Majesty, or of his confidential servants, with this House, in any manner which may tend to create an opinion in those Assemblies, that such interposition or influence must necessarily bring on a repeal of any duties or taxes laid, or to be laid, by authority of parliament.

6. "That it is highly derogatory from his Majesty's honor, and from the freedom of parliamentary deliberation, to pledge the faith of the crown to the said assemblies, for the repealing or laying on, or continuing, or not laying of, any taxes or duties whatsoever.

7. "That to give assurances in his Majesty's name, distinguishing certain principles of Taxation, and disclaiming an intention to propose any taxes within the

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said description, in order to establish and justify unwarrantable distinctions, has a tendency further to disturb the minds of his Majesty's subjects in America, and to weaken the authority of lawful government.

8. "That to lay before this House suggestions of Treason, or Misprisions of Treason, subsisting in America, in order to bring this House into a plan for the repressing and punishing such supposed treasons and misprisions of treason, when in reality no such treason, or misprisions of treason, did subsist, or, if they did subsist, no measures whatsoever have been taken, or appear to have been intended, for apprehending and punishing the persons concerned in the same, is an audacious insult on the dignity of parliament, and, in its consequences, tends either to bring a reflection on the wisdom and justice of parliament, or to encourage treasons and treasonable practices by neglecting to carry into execution measures recommended by parliament."

Mr. *Rice* rose to defend his friend and colleague in office; he defended the circular letter to governor Bernard, directing him to dissolve the Assembly, if it did not rescind: that the letter not being directed to the Assembly, nor meant for their cognizance, could neither menace nor even influence them unduly. He defended the sending the troops, as a necessary measure; and the repeal, as a wise proposition founded on commercial principles: he formed his answer on these grounds, and did not enter into any of the other matters, as they were points in which parliament, not ministers, were concerned.

Mr. *William Burke* supported every article of the motion in strong terms.

Colonel *Onslow*, distinguishing those measures which were the measures of parliament from those which might properly be fixed upon ministers, called upon gentlemen to point the charge to something particular; to make good the charge; and to found the censure upon established truth, not upon vague and general declamation.

Mr. *Townshend* declared he was for bringing things to persons; that the times called for vigorous measures of parliament; that if there was that relaxation in the minds and tempers of them, that they could not suffer themselves to take up such measures as came to persons, we were undone; for there wanted only an assurance that ministers might be bad with impunity, to close the scene of our ruined state of government. He was, therefore, for fixing a censure on measures, with a direct view to the bringing the censure home to the ministers who were the authors of them, and who ought to be responsible to the public for their conduct.

Lord *Clare* made an ironical apology for the opposition, in that they had brought forward these matters so late. He said, he did not so much wonder that these matters were deferred so long, as that the gentlemen in the opposition were enabled to bring them on at all: for, when he considered how many different matters were to be mutually conceded; how many discordant opinions, by interpretation, to be reconciled; he could not but admire both the industry and ingenuity of the several gentlemen who could thus bring so many things together, and to agreement: he thought it must take great time to settle the first cause of all these disorders in America, finely painted to the House. One set must have once thought that the Stamp Act was the cause; another, that the repeal of it was the real cause; but that, to avoid this old ground of division and recrimination, they had at last, after a long and curious negociation, agreed to take up the cause from a later date, by considering only the disorders which have of late prevailed in America. But, to be serious, he thought that a majority of the House would be of opinion, that the true cause of all our disputes with our colonies were to be, and ought to be, traced higher. He talked of an amendment to this purpose, but his idea was not adopted by the ministry.

General *Mackay* made some general observations on the state of things in defence of the measures of administration.

Mr. *Wedderburn*, after settling a point with lord Clare, as to the ease with which great statesmen might reconcile inconsistencies between opinion and conduct, from his lordship's own example of the ease, with which he, who was for the Stamp Act upon principle, could take a post at the head of the American department, under a ministry that had repealed that Act, upon the principle of being against all American taxation, from the short time it took him to settle those contrarieties—he shewed that such had been the conduct, and such the dangerous consequence of that conduct, in some late mi-

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nisters upon American affairs, that they had united people and parties of the most differing opinions as to former measures, in that which was now become the one only necessary measure, that of interposing to prevent the impending ruin of this country, by the total loss of its American dominions. He then applied general Mackay's general observations to a confirmation of the errors and mischievous measures of ministry, to their negligence and total abandonment of American affairs, without ever proposing or thinking of any plan for conducting them.

He then shewed how, by these measures, America, which, in the reign of George 2, was totally annexed to the British empire, was, in the reign of George 3, totally dissevered and cut off from that empire: that the American colonies had ceased to be British dominions, were no more so than Calais, which was once a British province, now was such. He said, that when one poor, miserable, short-lived precedent of a third secretary of state, existing for a few weeks in the time of Edward 6, was brought forward to evade an express law, in order that a noble lord might be put at the head of a distinct American department, he should have thought that, in the choice of that lord, one would have been fixed upon whom knowledge of commerce, experience in the system of our plantations and colonies, whom prudence, firmness, and a well-grounded conduct, marked out more particularly. He was sorry, yet, however, he must say in the most direct terms, that the minister put at the head of that scarcely legal department was not fit for it: that his conduct was such as called for his removal; and that he thought these Resolutions led, by the justest steps, to what must produce that effect.

Lord *North* took up some expressions which Mr. Wedderburn had used, in high terms, and returned a flat contradiction to them. The matter was nothing to the present debate, and was, on both sides, a misconception. His lordship then came to the ground of answering the several matters of charge against the ministry, article by article, and said as much as could be for them, but avoided the mention of any plan for the future.

Mr. *Grenville* took up the argument, and, after having shewn that ministry had, both as to execution and lenity, done every thing which they ought not to have done; and as to system of governing, had omitted to do every thing they should have done; that they were not only reprehensible for what they had done, but highly criminal for daring to take great offices, and to have done nothing; he called upon them for their plan, and charged them strongly for not having such, and for not laying it before parliament; when, by the King's Speech, the consideration of some such thing was become avowedly part of the business of the session. He spoke long and ably.

The question being importunately called for, the first Resolution was negatived without a division. The House then divided on the second Resolution. The Yeas went forth:

Tellers.

Yeas	Mr. Seymour - - -	79
	Mr. Phipps - - - -	
Noes	Sir Alex. Gilmore - -	199
	Colonel Onslow - -	

So it passed in the negative. The rest of the Resolutions were negatived without a division.

*Debate in the Lords on the Duke of Richmond's Resolutions relating to the Disorders in America.**] May 18. The order of the day being read for taking into consideration the American Papers laid before the House this session, and for the Lords to be summoned, part of his Majesty's Speech at the opening of the session, the preamble of the Act 7 George 3, for discontinuing the drawbacks payable on china earthen ware exported to America, &c., a Letter dated 21st April 1768, from the earl of Hillsborough, and a Letter dated 22d April 1768, from the earl of Hillsborough, were read.

The Duke of *Richmond* then rose and said:

My lords; notwithstanding the boasted vigilance of administration, notwithstanding the state of the British empire grows hourly more and more alarming, and notwithstanding the crisis to which our present unhappy disputes with America have arrived, we are now upon the point of a prorogation, without seeing any thing done for the benefit of the nation, and the solemn assurances given us at the commencement of the session, like

* From the London Magazine.

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"the baseless fabric of a vision," vanish totally into air, and "leave not a wreck behind."

My lords, at the opening of the present session, the dangerous state of the American colonies was particularly recommended to our attention, and we were justly given to understand, that the restoration of unanimity between our subjects on the different sides of the Atlantic, was a matter of the last importance: from this seeming attention to an affair of unquestionable consequence, many flattered themselves, that even the blessed set of ministers, who now superintend the business of this unhappy kingdom, were for once really desirous of doing something praise-worthy, or that they had accidentally blundered upon an object highly necessary for the consideration of a British parliament. The issue, however, is as melancholy as the beginning was agreeable. The fairy dream in which our imaginations were so pleasingly engaged, is now converted to a most mortifying scene of disappointment, and we wake from the illusion of imaginary happiness, to experience an additional pang in the accumulating wretchedness of our country.

My lords, if our ministers, nobly insensible as they are to shame, had no regard whatever for their reputation, one would at least suppose, that they would have manifested some little anxiety for their interest. One would suppose, that the same depravity of principle which led them to acquire, would lead them to aim at security in their offices; and that they would endeavour to avoid the storm of public wrath, however they might despair of gaining the public approbation. I am therefore astonished, that they themselves should not bestow a single thought on what they have so earnestly recommended to our attention. We are, as I have already observed, upon the eve of a prorogation, and yet so far has the great business of America been neglected, that we have not heard a syllable from them on the subject, though it constituted so essential a part of the King's Speech at the opening of the session. To what, my lords, shall we attribute this shameful incongruity? If we impute it to design, it argues a profligacy of character that makes the puppets of the present hour dangerous to the community; if we ascribe it to weakness, it argues them utterly unfit for their offices. Let them take their choice of the alternative, their choice of the artful knave, or the incorrigible fool, and in either point of view they are a disgrace to the very name of government.

But, my lords, as the interest of the nation must not be sacrificed to the fraud, or the incapacity of administration; as I trust this House will always watch attentively over the public good, however that good may be disregarded by the more immediate superintendents of the state, I shall beg leave to propose some Resolutions relative to American affairs, which I flatter myself will have a tendency to restore peace in the colonies, and reflect honour upon the mother country.

My lords, I shall now conclude with moving the following Resolutions:

1. "That in several of his Majesty's colonies in North America, disorders have of late prevailed, prejudicial to the trade and commerce of this kingdom; and destructive to the peace and prosperity of the said colonies.

2. "That the letter of the earl of Hillsborough, of the 22d of April 1768, to Francis Bernard, esq. governor of the Massachusetts Bay, was a common office letter, without any particular mark, or special direction for keeping the same, or any part of the same, secret.

3. "That it does not appear that any direction of secrecy had been given in any separate letter, or paper, transmitted with the same letter.

4. "That the said letter did contain an order for dissolving the assembly of the province of Massachusetts Bay, upon their refusal to comply with certain propositions.

5. "That governor Bernard did lay the said propositions before the assembly, and did threaten the said assembly with a dissolution, and its consequences; and did, in vindication and support of such proceedings, lay before the assembly the said letter of the Earl of Hillsborough.

6. "That the directing the dissolution of the assemblies of North America, upon their refusal to comply with certain propositions, operated as a menace injurious to the deliberative capacity of the assemblies, excited discontent, and contributed to produce unjustifiable combinations.

7. "That the assemblies of North America having been dissolved, for not disavowing or discountenancing certain combinations, the suffering new assemblies to sit, without disavowing or discountenancing the said combinations, was a proceeding full of inconsistency, and tending to

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lower, in the minds of his Majesty's subjects in America, all opinion of the wisdom and firmness of his Majesty's councils.

8. "That lord Botetourt, his Majesty's governor of the colony of Virginia, was instructed by a letter from the earl of Hillsborough, in the following words: 'His Majesty relies on your prudence and fidelity for such an explanation of his measures, as may tend to remove the prejudices which have been excited by the misrepresentations of those who are enemies to the peace and prosperity of Great Britain and her colonies, and to re-establish that mutual confidence and affection, upon which the glory and safety of the British empire depends.'

9. "That these his Majesty's measures appear, by the said letter, to be measures concerning the distinction of certain principles of taxation, and the repeal of certain taxes imposed by authority of parliament.

10. "That in consequence of the said instructions, lord Botetourt was authorised (as far as a letter of a secretary of state was authority) to state these measures as his Majesty's measures, and to explain the same according to his notions of prudence.

11. "That lord Botetourt did accordingly assure the assembly, that his Majesty would rather lose his crown than preserve it by deceit.

12. "That this declaration is highly improper, inasmuch as it is personally involving his Majesty in the measures of his ministers.

13. "That the said assurance related to the repeal of certain taxes, and the distinction of certain duties.

14. "That it is unwarrantable, of dangerous consequence, and an high breach of the privilege of parliament, to promise to the assemblies in North America, the interposition or influence of his Majesty, or of his confidential servants with parliament, in any manner which may tend to create an opinion in those assemblies, that such interposition or influence must necessarily bring on a repeal of any duties, or taxes, laid, or to be laid, by authority of parliament.

15. "That it is highly derogatory from his Majesty's honour, and from the freedom of parliamentary deliberation, to pledge the faith of the crown to the said assemblies, for the repealing or laying on, or continuing, or not laying of any taxes or duties whatsoever.

16. "That to give assurances in his Majesty's name, distinguishing certain principles of taxation, and disclaiming an intention to propose any taxes within the said description, in order to establish and justify unwarrantable distinctions, has a tendency further to disturb the minds of his Majesty's subjects in America, and weaken the authority of lawful government.

17. "That to lay before this House suggestions of treason, or misprision of treason, subsisting in America, in order to bring this House into a plan for the repressing and punishing such supposed treason and misprisions of treason, when, in reality, no such treasons, or misprisions of treasons, did subsist; or if they did subsist, no measures whatsoever have been taken, or appear to have been intended, for apprehending and punishing the persons concerned in the same, is an audacious insult on the dignity of parliament, and in its consequences tends, either to bring a reflection on the wisdom and justice of parliament, or to encourage treason or treasonable practices, by neglecting to carry into execution measures recommended by parliament.

18. "That these many ill-judged and inconsistent proceedings have been a principal cause of the aforesaid disorders."

The question being put upon the First Resolution,

The Earl of *Hillsborough* said:

My lords; as I have ever made it a first principle to maintain a strict neutrality during party commotions, as it has been my pride, no less than my happiness, to attend solely to the duties of my office, and to preserve my honest independence as a member of this House, I own it surprizes me not a little, to find party busily meddling itself with my conduct, even as a man, from a mistaken idea of my behaviour in the service of government; liberality of sentiment, however, is not the characteristic of the present period; nor are the patriots of the hour the most eminently distinguished for their love of justice; on the contrary, they are eternally making their belief, their fact; and drawing their inferences from premises founded wholly on their own conjecture: yet, in spite of prejudice, in spite of misrepresentation, I shall confidently enter upon the subject of my defence, and possibly prove myself a more disinterested friend to this

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kingdom, than many who particularly plume themselves upon an unbounded popularity.

My lords; since the period in which I first had the honour of being employed as minister in the American department, it has been my unalterable study to pursue such measures as appeared most conducive to the interest both of the mother country and the colonies, without once losing sight of the great constitutional point, the supremacy which the former should always possess over the latter, and which is no less necessary for the welfare of the Americans, than for the honour of the British parliament. It is true, indeed, administration has frequently sent over disagreeable orders to the governors of several provinces; orders which bore, perhaps, marks of severity, if the cause remained unknown, and which possibly deserved the name of oppressive, if issued to operate upon people yielding a proper subordination to the laws, and living in a state of tranquillity. But who, my lords, will take upon him to assert, that when the colonies rise up in a daring opposition to all legal authority; when they deny their dependence upon this kingdom; when they attack the lives of such among them as seem well affected to the parent state, and when they will not suffer English vessels to carry on a peaceable commerce, nor indeed any commerce at all with English ports in America; who, I say, in such a case, will assert, that the mother country should quietly sit down under the flagitious insolence of her dependencies, that she should tamely suffer injury after injury, and allow the colonies to rule her with a rod of iron, for fear of being charged with a severity of conduct towards the colonies? The minister, who in such a case neglected to vindicate her just rights, would shamefully betray them: timidity is treason where the happiness of our country is at stake, and a man would deserve as much to be impeached at your lordships' bar, who scandalously shrunk from the defence of your rights, as if he had actually given them up.

My lords, the irresolution of government with regard to the affairs of America, is a matter of much triumph to the gentlemen in opposition, and the difficulty of reconciling the differences so unhappily subsisting between us and our colonies affords an incessant opportunity for descanting, either upon the weakness, or the wickedness of administration. For my own part, however, I think these differences might have been long since amicably adjusted, were it not for the conduct of our patriots, who are continually throwing obstacles in the way of a reconciliation, and as continually accusing the ministry with keeping open a wound, where the radical means of cure is totally denied by themselves.

My lords, to support the justice of this assertion, let us only turn our eyes to the institution of the Stamp Act, loudly as it has been execrated, and universally fashionable as it is become to execrate every law that raises a revenue immediately upon the Americans. The Stamp Act at its institution was certainly as repugnant to the principles of freedom, as at the time of its repeal; a measure which is now declared to be self-evidently wrong, must surely have appeared wrong on its first agitation, in the two wisest, the two justest, as well as the two greatest assemblies of this kingdom: yet so far were our patriots at the time from being alarmed at any violence offered to the constitution; so far was a Revenue Act upon America judged repugnant to the real principles of freedom, that little or no opposition was made to the Bill in parliament, and even many of the American agents themselves allowed it to be as salutary a mode of raising money, as any that had been thought of by preceding administrations. The law was, therefore, passed with as much indifference as any other law, and the colonies never thought of denying obedience to it till they were encouraged to such a denial by the patriots of the mother country. It is true, indeed, the colonies expressed a dissatisfaction at the Stamp Act, but what people are ever pleased with paying taxes? We ourselves on this side the Atlantic, are seldom much delighted when new burthens are imposed upon us; on the contrary, a general exclamation accompanies every fresh tax we lay upon the people: though the money raised is absolutely raised for their own service, they deem themselves oppressed in raising it; and require two or three years to reconcile their minds to the necessary means of promoting the national security. This was the case entirely with the colonies: they did not relish a new tax; they considered it oppressive, but never once dreamt of refusing obedience to it, till the patriots of the mother country desired them to refuse; till the *patriotic* wish of getting into place, rendered it necessary to make a formidable party against administration; then

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the power claimed by the British parliament of subjecting the colonies to a revenue was found utterly incompatible with the principles of freedom, and the express declarations of Magna Charta: then, a breach was to be effected between the different sides of the Atlantic, and the Americans were to discontinue their trade, that the losses consequently resulting to this kingdom, might arm the populace on the side of faction, and induce them to attribute the decay of their manufactures wholly to the ignorance, or the tyranny of government.

My lords, this infamous scheme now failing, and administration being determined, at all events,, to support the legal authority of the mother country over every part of her dominions; a complaint is now brought before this House of our misconduct, our incapacity, our oppression; the parliament of England is now told of our delinquency, and called upon to punish our malversations. Yet how has government offended? Is the legislature of this kingdom to punish us for maintaining its own supremacy? Are the people of England to execrate us, because we have particularly stood forth against every effort of faction, to secure them in the possession of their dependencies? I will not, my lords, insult your understandings, I will not insult the virtue of the nation, to suppose it. Let our patriots therefore, if they would arrive at eminence by their conduct, go over to America, and demand the confidence of the colonies. They may have real merit to plead there in their attempts to overturn the constitution of Great Britain; they may have merit there, by endeavouring to render the impudent resolutions of a provincial committee, superior to our lawful ordinances. But here, my lords, I trust they will be ever held contemptible; that their characters will be as mean, as their proceedings have been flagitious, and that their machinations to destroy the importance of the English empire, will always make them detestable to every good Englishman.

The would-be patriots, my lords, who have paraded so much upon their public spirit, are exceedingly offended with the military, and declaim very pompously on the outrages which they committed in Boston. But, surely, it is not criminal in any subject, whether a soldier or not, to defend his life legally, when it is illegally attacked. The Boston accounts themselves, acknowledge the townsmen to be the aggressors, and is a soldier to be particularly exposed to the licentiousness of the rabble, because he is performing his duty? or is he to be less intitled to protection than another man, because he is more immediately than any other man, devoted to the service of the community? God forbid! Fashionable soever as it may be to condemn our troops, for supporting the due execution of the laws, and aiding the necessary authority of the civil magistrate, I still trust that justice will triumph over clamour: I still trust that reason will maintain its proper pre-eminence over faction, and that this House will not consider those popular worthies much intitled to its thanks, for publicly impeaching its constitutional jurisdiction.

My lords, a noble duke has been pleased to call my letter to some of the American governors, directing a dissolution of their respective assemblies, ill-written, and anti-constitutional, wanting the sanction of parliamentary advice, as well as the mildness of justifiable authority. I will not, my lords, venture to stand up in defence of my letter as a piece of composition; I am not vain enough to flatter myself with an idea of literary excellence, nor presumptuous enough to suppose any production of mine, would be able to defy the ordeal of his grace's criticism. But with regard to the meaning of my letter, with regard to my view in writing it, I think I can safely place my hand upon my heart, and not only acknowledge the motive, but glory in it. It may, perhaps, be criminal in the eyes of that noble duke, to vindicate the supremacy of the mother country, and it may, in his opinion, be the ground of a reasonable parliamentary complaint, that I have dared to enforce a due respect for the dignity of parliament. His grace may claim the applause of the people by sacrificing their rights, and pay his court to this House, by disputing the legality of its ordinances. For my part, being in office, I can have no pretence to these exalted inconsistencies, which so peculiarly distinguish the flame of modern patriotism. Plain common sense is the only advocate I shall attempt to employ, and your lordships shall be the only judges of my vindication. If my letter therefore is anti-constitutional, let his grace point out in what: if it is dictated by severity, let him shew us in what the severity consists. If, indeed, it is repugnant to the principles of the British constitution to execute the

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laws of Great Britain, I am a culprit of the first magnitude. If it is oppression to dissolve those provincial legislations, which were exposing themselves to punishment by the insolence of their resolutions, I am an oppressor: nor do I wonder, when it is public virtue to betray the rights of the nation, that it should be held criminal to appear in their defence. My criminality however is my principal boast. The star of America shall never have my voice, to shine either upon the destruction or the disgrace of Englishmen. The colonies are our subjects: as such they are bound by our laws; and I trust we shall never use the language of supplication, to beg that our subjects will condescendingly yield obedience to our inherent pre-eminence.

My lords, it is a mighty argument with popularity, that government has not yet been able to reconcile the unhappy disputes between the mother country and the Americans, and the inability to effect that desirable reconciliation, is constantly mentioned as a charge against the ministry, though our patriots are perfectly sensible that the fault is entirely owing to themselves. The ministry, my lords, have nothing more at heart than a proper accommodation of these unfortunate dissensions. It is their first study—their first wish; but the gentlemen in opposition will not suffer them to accomplish it. They are continually exciting the colonies, to demand concessions which the mother country can never consistently allow; and then they exclaim, because our differences are not reconciled. In like manner, they are hourly deploring the loss of our American trade; and yet with the very same breath advising the Americans not to deal with us. In fact, my lords, their whole patriotism is a despicable avarice of employment; and their whole labour, an endeavour to distress administration, not a generous solicitude to serve their country. To do this, every bait must be thrown out to catch the ignorant, and every artifice made use of to inflame the discontented: so they can succeed to office, no matter what becomes of the public good. This poor kingdom may be sacrificed to her dependencies, and the British parliament be reduced to a necessity of rescinding its laws, at the command of a provincial assembly. Can you, my lords, restrain your indignation at the bare idea of so mortifying, so abject a proposition? Is not the whole Englishman maddened in your bosoms, at the remotest thought of crouching to the creatures of your own formation? Have you erected colonies to be your masters, not to be your dependents—and will you suffer that insolence to assume the name of patriotism, which arraigns the warrantable exercise of your own authority? No, you will never suffer such a wantonness of temerity; you will reject the Resolutions before you with contempt, and shew these turbulent brawlers, that you are not to be intoxicated out of your duty, by the heady fumes of a licentious popularity.

Here there was a general cry of adjourn! adjourn!

The Marquis of *Rockingham*:

My lords; though some noble personages, who are connected with government, seem anxious for a speedy determination of the present question, and though others have called out to adjourn, I think it my duty to say a few words, notwithstanding the greatness of their impatience, and I hope they will not so far impeach the rectitude of their own measures, as tacitly to confess they will not bear an examination.

The noble lord, who has now favoured us with his defence, is pleased to be very severe upon the gentlemen in opposition, and to attribute their endeavours for the public welfare, to a mean desire of getting into office. I do not, however, see, why they are to be branded with a stigma of this nature, any more than the noble lord himself: they are as independent in their fortunes, as upright in their principles as the noble lord, and have less temptation, surely, by the mere hope of being employed, to prejudice their country than the noble lord, who is actually in place, and may be reasonably supposed no way desirous of quarrelling about trifles, either with the influences he consequently possesses, or the emoluments.

My lords, it is universally allowed, however we may censure the conduct of the Americans, that the first exercise of a power to tax them in the parliament of this country, was at least extremely injudicious, if it was not actually illegal, since much more was to be got from their affection than their fear, from the extension of their commerce than the increase of their public burdens. While they submitted, therefore, to regulate their commerce by our discretion, they thought it hard that their property should also be at our dispo-

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sal, and that we should not only restrain them in the acquisition of this property, but apply it when acquired, to answer our own exigencies. They contentedly pursued these paths to obtain their little wealth, which we judged most conducive to our interest, but they denied our right of taking away that wealth when obtained, and of trusting to the discretion of any authority, what they naturally enough considered to appertain wholly to themselves. It was of course no way wonderful, that in opposing what they deemed a palpable invasion of every thing dear, they should fly to some excesses. The mother country herself upon particular occasions, is not able to restrain the spirit of her own populace, even where they have apparently less foundations for complaint. She should, consequently, learn to make the same excuses for the Americans, which she requires for herself, and recollect that few popular insurrections have ever taken place in an English government, without having a strong appearance of justice, if they were not originally justified by the error of the governors.

My lords, there is the greater necessity for treating the colonies mildly on this occasion, because we ourselves are exceedingly divided, with regard to the necessary measures of effecting a reconciliation between them and the mother country. Many of the ablest members in both Houses think that we have no right whatever to tax them. Others contend for the right, but exclaim against the exercise: and all are satisfied that the happiness of the British empire immediately depends upon the termination of our unfortunate dissensions. Thus situated therefore, I am not surprised that the Americans should think themselves oppressively treated, when numbers on this side of the Atlantic are heartily of the same opinion; nor am I surprized at the excesses they run to in defence of privileges, which so many, even of their British fellow subjects, pronounce to be their birth-right, and exhort them to assert with their blood.

I candidly confess, my lords, that government has a very delicate part to act in so critical a conjuncture; to maintain the due authority of the mother country, and yet satisfy the demands of the Americans, is no easy circumstance. But still, as the first cause of complaint seems to be given by us; as we shall always have the power of enforcing a just authority over the colonies, if they should at any time mistake an act of indulgence, for an instance of timidity; and as it is for our own interest to bring them as speedily back to their duty as possible, I hope we shall not insist too rigidly upon the punctilios of pre-eminence; nor set an inconsiderable tax by any means in competition with the trade and the affection of America.

Earl *Temple:*

My lords; it is astonishing, that at the very close of the session, our ministers are afraid to undergo the honest test of an examination into their conduct, and are obliged to shield themselves behind their numbers, from the abhorrence which must necessarily attend an enquiry into their mismanagement. Surely, as they have nothing now to apprehend till the commencement of the next sitting, they need not be so shamefully intimidated at the question before us, as to press for an adjournment; their flight is as disgraceful as any defeat they may suffer in the field of fair argument, and their giving the cause up as utterly indefensible, is even worse than the poorest stand which they can possibly make before the lovers of their country.

For my own part, my lords, unless the question now under our consideration is fairly discussed, and unless something is done to remove our unhappy differences with America, I shall be apt to think, that while our present ministers continue in office, there will be little occasion for the meeting of parliaments. They assemble us very formally together, and tell us in a Speech from the throne, "that it is needless to recommend the state of America to our attention—and that they have endeavoured on their part to bring the Americans back to their duty, and a due sense of lawful authority."—Yet, after so positive a declaration with respect to the necessity of bringing this business before us, they call out for an adjournment the moment we take it up, and will not suffer us to do any thing whatever in an affair where so much is absolutely requisite, according to their own acknowledgment, for the happiness of the kingdom.

This, my lords, is, I confess, performing promises in a very singular manner, and doing the business of government in a stile more singular; it puts me in mind of that stale French gasconade,

"The King of France, with forty thousand men,
"March'd up the hill, and so march'd down again."

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For here we are, the last day but one of the session, in respect to America, just where we sat out; every thing left unsettled, and opening to our view the most alarming prospects; the wisdom and advice of parliament, (so ardently sought after by former ministers) totally neglected and despised; and every thing consigned to the minister of that department, who breathes nothing but sanguinary measures.

Perhaps, however, I put a different construction upon their words, and understand the expression—"it is needless to recommend the affairs of America to your attention," in a sense of recommendation, when I ought to annex a quite contrary meaning to it, and conceive it in a light wholly literal and prohibitory. For it is, indeed, needless to recommend the affairs of America to our attention, if we must not attend to them, and it is equally needless to agitate any other matter in either House, if, the instant it comes in under the customary form of a question, a majority bawling out for an adjournment, is to wrest it from our deliberation. This is a manner of proceeding no less expeditious than it is new, and if the ministry are kind enough to adopt it upon all occasions, it will save a prodigious waste of unnecessary argument. The same numbers which throw out a disagreeable motion may, without the trouble of debating, carry a favourite measure speedily into execution, and while the minority are harassing themselves with reasoning upon points of national importance, the administration may laugh securely at the drudgery of their antagonists, and be certain of a continual triumph, without the fatigue of uttering a single syllable.

My lords, if the happiness of the kingdom was not a subject much too serious for pleasantry, I could laugh very heartily at the modern improvement in the English constitution, and observe it was natural enough in a ministry, which elected representatives for the people, to take the consideration of public business entirely from the hands of the parliament; but the mere form of legislation, surely, without the use, is too insignificant to be preserved, and of consequence since we are no longer to deliberate, the government should candidly tell us, that our future meetings are wholly unnecessary. A frankness of this kind will save us from contempt, without exposing the nation to any prejudice; and the ministry who do not pay any regard to parliamentary decency, may then execute their most sanguinary measures, without the smallest dread of parliamentary reproach.

My lords, I have been engaged for many years in public business, have been in office myself, and have seen administrations that were highly obnoxious to the people; but such a set of ministers as the present, so lost to all sense of shame, so eminently above the mere pretence of regard for justice, I never saw. They are not satisfied with trampling upon our rights—they must add insult to oppression; they must make us feel our chains, as well as labour to enslave us; and despise our resentment, while they provoke our execration; let them not, however, depend too much upon their numbers—the silence of an injured people is the calm before an earthquake, and the despots perhaps have this moment reason to tremble, little as they apprehend a storm that will sweep them to destruction.

Lord *Shelburne:*

My lords; I scarcely remember a period in history ancient or modern, where the ministers of a state, however dead to the feelings of justice, were so lost to the sentiments of shame, that they gloried in their delinquency, and deemed it meritorious to be detested by every sensible, and every honest individual of their country. This pinnacle of profligacy was reserved for the present ministers of Great Britain, who have adopted the principle of the Roman tyrant as far as they were able; and if our heads were beyond their power, have at least cut off all our liberties with a blow. When these upright gentlemen lately violated the sacred right of election, it was reasonably enough conjectured by the discerning, that they would speedily carry their despotism to still greater extravagancies, and accordingly we find the supposition founded but too fatally; for though in appearance they have deprived one county only, of its legal representative, still they virtually overturn the whole constitution, by preventing all debate on the very subjects which they particularly recommend to our notice, and to receive our opinions upon which, is the chief end of convening us in our parliamentary characters.

My lords, if we were to be amused with empty professions, and to believe the very pretty things which each of the ministers says about his own conduct, we should be apt to imagine that no nation was ever so

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well governed as Great Britain is at this moment, and that no opposition was ever so infamous, as the opposition which is universally made to their administration; but when the incontestible evidence of facts is hourly contradicting their most plausible declarations, we are obliged to resent the insult offered to our understanding, as much as the stab directed at our freedom, and to expose the futility of their arguments, though we despair of any benefit from their conviction.

The noble lord who has acknowledged himself the ostensible minister on the present question, has talked very loudly about our rights, yet he has not shewn in any manner how these rights have been supported either by himself, or by any other member in the administration. Does it look like supporting our rights to shrink from an examination of his own conduct? or does it look like supporting our rights to prevent the enquiries of parliament with premature motions of adjournment? Of what use is our assembling, if we are not allowed to express our sentiments? Of what service is it to recommend any national object to our attention, if it is not to be seriously considered? The people, I repeat it, are virtually robbed of their legislature, if that legislature is not allowed a power of acting, and the ministry in vain tell us of supporting the authority of the mother country in America, when they divest her of all constitutional jurisdiction in her own immediate assemblies.

Here, my lords, is a business referred to us by express command from the throne, perplexed in its nature, but highly important in its end. It is referred to us particularly, because it has already baffled the utmost efforts of administration. We accordingly enter upon it in obedience to the royal mandate, and in justice to our suffering countrymen. Yet the very power that sends it to us, and requires our assistance, takes it peremptorily out of our hands before we express the least opinion; and for what purpose? To lodge it again with the man, that has declared it too mighty for his abilities; and this very man, to whose mismanagement the chief complaints are attributed, has himself the temerity to move for re-committing it to his own direction. This is an unprecedented insult to the dignity of parliament, and could only be intended to make us feel the omnipotence of the minister. Severely, therefore, we do feel it, especially as it prevents us no less from obeying the command of the sovereign, than from consulting the welfare of the people, and throws dishonour on the crown, while it pours in additional calamities upon the kingdom. Reduced to a state so truly deplorable, of what service is it to appear any longer in the political theatre, where, at best, we are treated with ridicule, and denied every opportunity of acting a useful character for our country? Secure in their numbers, our managers rule us at present as they please—but a time may come when, like the conductors of our inferior dramas, they may dearly suffer for abusing the patience of the public.

Earl *Gower*:

My lords; the patriotic concern which the three noble lords who last spoke, express for the loss of parliamentary freedom in debate, is really whimsical enough, when the very energy with which they deplore it, and the abuse which they consequently throw upon government, is the strongest of all possible proofs that it still exists in the highest latitude among us. If, indeed, they were denied a liberty of expressing their sentiments; and if they did not express their sentiments in terms as gross as they thought proper, then they might have some foundation for their present complaints. But if the privilege of traducing the first characters in the community, of vilifying every individual in power, and even of insulting majesty itself is not a sufficient freedom in debate, I must beg they will tell us what freedom of debate really is, and I shall be among the first to move for gratifying them directly to the utmost extent of their inclinations.

Possibly, however, the noble lords will tell us that freedom of debate is a matter of no consequence, unless every question that comes before us is determined agreeably to their own wishes. In this too, I should be glad if they were obliged, but unluckily the constitution of this country, for which they are such inflexible advocates, in all parliamentary debates, places the power of deciding in the hands of a majority. Let them once obtain this majority, and then they will have nothing more to ask for. They will then have the power of executing all their public spirited purposes, though I do not think they will be able to enlarge their present freedom of debate; or if they despair of overcoming their opponents in numbers, let them only reconcile the proceeding either to the dic-

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tates of reason, or the principles of law, and they shall have my voice for immediately lodging the right of decision henceforward with a minority.

The noble lords have pathetically informed the House, that though the American business was particularly recommended to parliamentary attention, they are nevertheless precluded from delivering their sentiments by the call for adjournment. Yet why, pray, could not their lordships as well deliver their opinion upon the motion before the chair, as upon the call for adjournment? It was more pertinent as well as more regular, and would have rendered all those complaints relative to the prohibited freedom of debate utterly unnecessary. It would at least have saved the House from the fatigue of hearing a great deal of very heavy declamation—from the toil of listening to distresses without an object, and tolerating Billingsgate without an end.

The noble lords are pleased to be much offended that the American dispute was not brought before the House earlier in the session, when by the general sense of the House it is now brought before us, even more early than we wish. The noble lords will, however, say that it is only so in the sense of a venal and corrupt majority: yet as that majority has constantly prevailed during the whole course of the session, it was of little importance, according to the very creed of patriotism, to agitate the American affairs a moment sooner. Those affairs, I grant, were recommended to our attention from the throne, and of very great consequence I readily acknowledge them to the kingdom: but the opposition employed so much time in harassing government, upon the informalities of the Middlesex election, that the period for real business became materially wasted, and now that their own perverseness has unnecessarily trifled away the session to its close, they are very angry that there is not a sufficient interval for entering upon one of the greatest objects that ever required the consideration of an English parliament.

The noble lords may probably reply, that opposition has not trifled with the session, that the Middlesex election was an affair of the last consequence to the British empire, and that they have now brought the American business regularly before the House. I will answer them on this ground; they have brought the business regularly before the House, and we are determined for the present session to dismiss it regularly; we have as much right to do the one, as they have to do the other; our conduct is to the full as consistent with order as theirs can possibly be, and though they may censure the minister for adjournment, I nevertheless insist that it is perfectly agreeable to the strictest practices of parliament.

To be sure the noble lords will call us a corrupt, a venal majority, and generously weep over the ruins of their miserable country. Every sensible man, however, knows that almost all majorities are branded as corrupt, by the ignorant or the interested. Every sensible man, moreover, knows, that this kingdom has been many centuries on the verge of destruction, and that national distress, or expiring liberty has been constantly a subject of declamation with the dirtiest faction. Yet, blessed be God, we have incessantly encreased both in our property and our freedom, notwithstanding all the melancholy predictions of patriotism, and I trust the same remarks will be made in succeeding ages, when the public-spirited worthies of the present hour, are either consigned to oblivion, or hung up to the ridicule of posterity.

The Ministry thus refusing to take any notice of the proposed Resolutions, the question to adjourn was carried, by 60 against 26.

The King's Speech at the Close of the Session.] May 19. The King came to the House of Peers and closed the Session with the following Speech to both Houses:

"My Lords, and Gentlemen;

"The season of the year, and the dispatch you have given to the public business, make it proper for me to put an end to this session of parliament.

"The temper with which you have conducted all your proceedings has given me great satisfaction, and I promise myself the happiest effects from the firmness, as well as the moderation, which you have manifested in the very critical circumstances which have attended your late deliberations.

"With respect to foreign affairs I have nothing material to communicate to you. I will continue my endeavours to appease, if possible, the troubles which still prevail in some parts of Europe, or at least to prevent them from spreading farther. In all events it shall be my first and constant

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care to watch over the interests, and to preserve, undiminished, the rights of my people.

"Gentlemen of the House of Commons;

"I return you my thanks for the supplies you have so cheerfully granted for the service of the current year, as well as for your attention to make use of every opportunity of reducing the national debt. The provision you have been able to make in this session for discharging so considerable a sum without laying any further burthen on my subjects, cannot but be highly advantageous to public credit.

"My Lords, and Gentlemen;

"I must earnestly recommend to you to exert in your respective counties the same zeal and prudence that you have shewn in parliament, for promoting the peace and the welfare of the kingdom; nothing can be so favourable to the wishes of those who look with jealousy on the strength and prosperity of this country, as the prevalence of animosities and dissensions amongst ourselves: let it therefore be your care to discountenance every attempt to infuse groundless suspicions and discontent into the minds of your fellow-subjects; make them sensible of my constant attention to promote their happiness; and convince them, that nothing can so effectually secure their liberties, as the maintenance of every part of our excellent constitution in its due force and authority."

Then the Lord Mansfield, Lord Chief Justice of the King's-bench, Speaker of the House of Lords, having received directions from his Majesty, prorogued the Parliament to the 19th of July. It was afterwards further prorogued to the 13th of November.*

* "A few days after the rising of parliament, another Address, Remonstrance, and Petition, was presented by the city of London, in which, after professions of the greatest loyalty and affection, they first deplore the severe censure cast upon them by the Answer to their former Remonstrance, and execrate the malignant and pernicious advice which could suggest it, and then renew their application in the strongest terms, for the dissolution of the present, and the calling of a new parliament; talked much of secret machinations, and the insidious attempts of evil counsellors; and insisted strongly upon the indispensible right of the subject, which they now claimed, of being represented by a full, free, and unmutilated parliament, legally chosen in all its members.

"The Answer, which was in support and confirmation of the former, was productive of an uncommon, if not unheard of circumstance. Mr. Beckford, then lord mayor of London, to the amazement of the court, and with a boldness and freedom, perhaps, peculiar to himself, made an immediate and spirited reply to the King's Answer, which he concluded in the following words, 'That whoever had already dared, or should hereafter endeavour by false insinuations and suggestions, to alienate his Majesty's affections from his loyal subjects in general, and from the city of London in particular, and to withdraw his confidence and regard from his people, was an enemy to his Majesty's person and family, a violator of the public peace, and a betrayer of our happy constitution as it was established at the glorious and necessary Revolution.' This answer was variously judged. Those who paid a high regard to the decorums of the court declared it indecent and unprecedented to reply to any answer of the King. But in the city his spirit was infinitely applauded. Both parties concurred in admiring the manner in which he delivered himself.

"The fate of this and the former Remonstrances, did not prevent one from the county of Surry, which was presented soon after; and was in some time succeeded by a Petition from the city of Westminster; nor did the death of alderman Beckford prevent another from the city of London, which was presented a few days after the meeting of parliament, and was the third received from that great city within the course of the year.

"Those in the popular interest, however, in general, finding all their applications for redress fruitless, seemed at length to despair of obtaining it in that manner, and to grow tired of presenting ineffectual petitions, which now by their frequency began to lose all their effect." Annual Register.

* "No change had taken place in administration during the recess; and as lord North had successfully weathered all the storms of the winter, supported by a prodigious majority, upon almost every occasion, he seemed now to be as securely fixed in his seat at the head of the treasury, as the fashion of the times, and

FOURTH SESSION
OF THE
THIRTEENTH PARLIAMENT
OF
GREAT BRITAIN.

*The King's Speech on Opening the Session.**] November 13, 1770. The King came to the House of Peers, and opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen;

"When I last met you in parliament, I renewed to you the assurances which I

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had before given you, that it was my fixed purpose to preserve the general tranquillity, maintaining at the same time the honour of my crown, together with the just rights and interests of my people; and it was with much satisfaction, that I indulged the hope of being still able to continue to my subjects the enjoyment of peace, with honour and security. Since that time, those very considerations, which I then promised you, that I would never sacrifice, even to the desire of peace, have laid me under an indispensable necessity of preparing for a different situation.

"By the act of the governor of Buenos Ayres, in seizing by force one of my possessions, the honour of my crown, and the security of my people's rights, were become deeply affected. Under these circumstances, I did not fail to make an immediate demand, from the court of Spain, of such satisfaction as I had a right to expect for the injury I had received. I directed also the necessary preparations to be made, without loss of time, for enabling me to do myself justice, in case my requisition to the court of Spain should fail of procuring it for me; and these preparations, you may be assured, I shall not think it expedient to discontinue, until I shall have received proper reparation for the injury, as well as satisfactory proof that other powers are equally sincere with myself in the resolution to preserve the general tranquillity of Europe. In the mean time, I have called you thus early together, in order that I may be able to receive from you such advice and assistance, as in the farther progress of this very important business, may happen to become requisite.

"With respect to the state of my colonies in North America, although I have the satisfaction to acquaint you, that the people in most of them have begun to depart from those combinations, which were calculated to distress the commerce of this kingdom, yet in some parts of the colony of the Massachusett's Bay very unwarrantable practices are still carried on, and my good subjects oppressed by the same lawless violence which has too long prevailed in that province.

"I hope and trust, that the precautions which have already been used for securing this country against the visitation of that fatal calamity, which has of late appeared in some of the distant parts of Europe, will, with the blessing of God, prove successful. But if, from any alteration of circumstances, it should at any time be found, that farther provisions will be wanted, I cannot doubt of your ready concurrence for so salutary a purpose.

"Gentlemen of the House of Commons;

"I will order the proper Estimates for the service of the ensuing year to be laid before you. They must unavoidably, in our present situation, exceed the usual amount. Every unnecessary expence my concern for the ease of my good subjects will ever make me careful to avoid. But I should neither consult their interest, nor their inclination, if I were to decline any expence, which the public security, or the maintenance of the national honour, does at any time require.

"My Lords, and Gentlemen;

"I am sensible how little I need say to you at this time, to prevail upon you to unite in whatever may best promote the true interest of your country. In all your deliberations upon points of a domestic nature, let the extension of our commerce, the improvement of the revenue, and the maintenance of order and good government, be always in your view. With respect to foreign measures, there will, I am persuaded, be no other contest among you, than who shall appear most forward in the support of the common cause, in upholding the reputation and promoting the prosperity of the kingdom. For the attainment of these ends, you shall ever find me ready to exert myself to the utmost. I have no interest, I can have none, distinct from that of my people."

The Lords' Address of Thanks.] His Majesty having retired, lord Sandys moved

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the precarious circumstances that might attend the commencement of the war, would admit of.

"The state of the different parties in opposition, had hitherto suffered no very material change. The death of Mr. George Grenville, which happened on the day of the meeting of parliament, having left that particular party, of which he was considered as the principal, without a leader, some of the most distinguished of them, and who appeared the most sanguine in opposition, went over to the court. Those of the old Whigs, who are called the Rockingham party, which was the strongest and most numerous of those in opposition, still continued to act upon the same principles on which they set out; and those who were particularly attached to the earls of Chatham, Temple, or Shelburne, took a general part with them in most public measures." Annual Register.

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the following Address of Thanks, which, after debate, was agreed to:

"Most Gracious Sovereign,

"We your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in parliament assembled, return your Majesty our humble thanks for your most gracious Speech from the throne.

"We beg leave to offer your Majesty our very sincere congratulations on the safe and happy delivery of the Queen, and the birth of a princess; and to assure your Majesty of our unfeigned joy at the increase of your domestic happiness, and that we consider every addition to your illustrious House, from which these kingdoms have received the most important benefits, as a farther security to our religious and civil liberties.

"We are too sensible of the blessing of peace, not to feel the greatest concern at any event, which threatens to interrupt its continuance, and defeat your Majesty's wise and gracious purpose to maintain it; but grateful as we are for this proof of your Majesty's paternal regard to the repose and happiness of your people, we owe your Majesty no less thanks for your anxious vigilance over the honour of your crown, and the interests of your people.

"We return your Majesty our most thankful acknowledgments, as well for the immediate demand, which your Majesty has been pleased to make from the court of Spain, of satisfaction for the injury received, as for the instant preparations that your Majesty made, to do yourself justice, in case your requisition should fail of procuring it; and we are exceedingly happy to be assured that your Majesty will think it expedient to continue prepared to assert the honour of your crown, and the security of the rights of your people, upon an event so deeply affecting both, until the injury shall be properly repaired, and satisfactory proof be given of the sincere resolution of other powers to preserve the general tranquillity of Europe. We, on our part, beg leave to assure your Majesty, that we will not fail to make the utmost efforts in our power to maintain objects so justly dear to us, as the dignity of your Majesty's crown, and the security of the national rights.

"We are very happy to be informed, that the people in most of your Majesty's colonies in North America are departing from those combinations, which were calculated to distress the commerce of this kingdom, and we hope soon to see an entire end of those unwarrantable practices, which have so long oppressed your Majesty's subjects in one of those provinces.

"We are highly sensible of your Majesty's goodness and care, in taking such precautions to secure this country against the visitation of that fatal calamity, which has of late appeared in some of the distant parts of Europe; and we shall always be ready to concur in any measures that shall be found necessary to the support of your Majesty's endeavours for so salutary a purpose.

"We have the most grateful sense of your Majesty's favourable opinion of our constant endeavours to promote the true interest of this country. We will, in all our deliberations upon points of a domestic nature, exert ourselves for the extension of our commerce, the improvement of the revenue, and the maintenance of order and government; and we flatter ourselves that your Majesty will not be disappointed in the gracious expectations you have formed of our zeal in the support of your Majesty's crown, and the reputation and prosperity of your kingdoms."

The King's Answer.] His Majesty's Answer was as follows:

"My Lords,

"It gives me great satisfaction to find that you entertain so just a sense of the importance of peace, while that desirable object can be maintained consistently with the honour of my crown, and the rights of my people: you may depend upon my best endeavours to preserve that inestimable blessing, so long as it is compatible with objects still more essential to the happiness and prosperity of my kingdoms.

"The affectionate part you take in the happy delivery of the Queen, and the increase of my family, gives me much pleasure."

*Debate in the Commons on the Address of Thanks.**] The Commons being returned to their House,

Lord *Greville* rose for the first time, and concluded a speech which was delivered with great timidity, by moving, "That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House, for his most gracious Speech from the throne.

"To offer to his Majesty our congra-

* From the Gentleman's Magazine.

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tulations on the happy delivery of her Majesty, and on the birth of another princess; together with our assurances, that we esteem every increase of his Majesty's royal family an additional security for the continuance of that happiness which we have already experienced under its auspicious government.

"To assure his Majesty, that, among the many proofs we have received of his Majesty's constant attention to the welfare and prosperity of his people, his Majesty's earnest desire to continue to us the blessings of peace, could not fail to inspire us with sentiments of gratitude and affection; but that we could have reaped little real satisfaction from the enjoyment of those blessings, had we not at the same time been able to place the justest confidence in his Majesty, that his Majesty would never be induced, by a mistaken tenderness for the present ease of his people, to sacrifice their more essential and more lasting interests.

"That we cannot but consider these as having been dangerously struck at, by the violence lately committed by a Spanish governor upon one of his Majesty's possessions: that, under these circumstances his Majesty's determination to make an immediate demand from the court of Spain, of such satisfaction as his Majesty had a right to expect, and at the same time to direct the necessary preparations to be made, without delay, for enabling his Majesty to do himself justice, in case his Majesty's requisition from the court of Spain should fail to procure it, demands our most hearty acknowledgments: and that we rejoice to find, that his Majesty will not discontinue these preparations, until his Majesty shall have received a proper reparation for the injury, as well as satisfactory proof that other powers are equally sincere with his Majesty, in the resolution to preserve the general tranquillity: to assure his Majesty, that, in the prosecution of this his Majesty's purpose, his Majesty will not be disappointed in his expectation of receiving from his faithful Commons every degree of support, which, in the progress of this very important business, shall become requisite: that with this view, we will enter without delay into the consideration of the supplies for the ensuing year; and whatever extraordinary expences the public service shall require, we will cheerfully provide for, in such manner as may be least burthensome to his Majesty's subjects.

"To declare, that, in considering the state of his Majesty's colonies in North America, we will neglect no means of securing the commercial interests of this kingdom, or of providing for the protection of his Majesty's good subjects there from every degree of violence and oppression.

"To return his Majesty our unfeigned thanks, for the timely precautions his Majesty has used for guarding against the introduction of that fatal contagion, which has of late appeared in some of the distant parts of Europe; and to declare, that while, with his Majesty, we place our ultimate reliance upon the Divine Providence for our preservation from so great a calamity, we shall consider it as our indispensable duty to make use of every reasonable precaution which human foresight can suggest to us.

"To assure his Majesty, that we will apply ourselves with all due diligence to the dispatch of the public business; in which we will not fail steadily to pursue those great ends recommended to us by his Majesty in his Speech from the throne, as well as by his royal example; and that, if any hopes should have been conceived, or it may have been any where surmised, that among his Majesty's people there were any such differences subsisting, as could in the least degree abate the ardour of their affectionate attachment to his Majesty, or prevent their joining as one man, in seconding his Majesty's views, for maintaining unsullied the lustre of his crown, and preserving undiminished the rights of his people, we doubt not, by our proceedings, to convince the world how false and injurious are all such surmises; and to make it manifest, that, whenever we are called upon in the cause of our king and country, there will be but one heart and one voice among his faithful Commons."

Mr. *George Rice*:

I rise, Sir, to second my noble friend, who, I think, in his speech, has expressed the properest sentiments in the properest words that could be found upon the occasion, in moving for a dutiful address to his Majesty. I am confident that the opinion which it expresses concerning that great object, a war, is the opinion of every sensible and honest man in the kingdom. The King and the subject are equally injured by the act of violence which has been committed upon Falkland island by the governor of Buenos Ayres;

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but do not let it be imagined that this injury arises from the value of the place, or that it has rendered any measures necessary on our part, to establish our character for steadiness or spirit, or eligible as an occasion of extending our dominions. The place is despicable and worthless, altogether a desart, and incapable of cultivation. The achievements of our forces both by sea and land are too recent for our prowess and courage to be brought into question by any act of folly or injustice in a Spanish governor; and the abuse of a drunken beadle, after a parish dinner, might as well be supposed a reasonable cause for a gentleman to draw his sword, as the seizing Falkland island, considering merely the act and the agent, can be supposed a reasonable cause for Great Britain to take the field; and if we were desirous of extending our empire, or our trade, we have resources for either, or both, without destroying mankind, and ravaging the earth.

But, Sir, they who would not expose themselves to great injuries, must repress those that are small; we must insist upon satisfaction in the present instance, or procure it for ourselves; not because Falkland island has been taken, but because nothing of more worth may be taken hereafter; as we prosecute for petty breaches of the peace, to prevent formidable attempts upon property and life. If satisfaction is refused by Spain, we may hope with more confidence to extort it for ourselves, as our colonies, except an inconsiderable province, have been brought back to a sense of their duty by a spirit and prudence which do equal honour to our administration. We shall, therefore, if a war is unavoidable, sustain it with the concentered force of an extended but united empire. We shall, indeed, feel the weight of taxes, which new supplies will render necessary; but this is one of the evils which is as essential to war as feeing a doctor and swallowing drugs are to a quinsey or fever; and it would be as absurd to say, that a war should never be undertaken because supplies must be raised, as that the sick should take no remedy because drugs are nauseous and doctors expensive. Besides, it is some comfort to reflect that we can have no enemy whose finances are not in a much worse condition than our own.

Upon the whole, then, I am confident that his Majesty will find no contest among his people, but who shall best demonstrate their zeal in affording him effectual assistance in a cause which indeed is less his than their own; and the sentiments of this Address will, scarce less than our military preparations, intimidate our enemies, by convincing them, that whatever transient animosities may subsist among ourselves, we have but one hand and one heart against a common enemy.

Sir *William Meredith:*

Sir; the language which our ministers and their friends affect upon this occasion puts me in mind of the fellow in the comedy, who took it into his head to sing, that he might not be thought to be afraid. They pretend, with an ill assumed confidence, that they shall be supported by the people at the very time when they know that the people wish destruction to them and their measures. They talk of union in a common cause, but do they not know that there can be no common cause with a common enemy, and that we have a common enemy nearer than France and Spain. Their wisdom is indeed worthy of their measures, and their measures of their wisdom, while they, violating the rights of the people at home, are presumptuously entering into a war in defence of rights abroad. Their proceedings, however extraordinary, are not without precedent, but it is a dreadful one. Charles the 1st did the very same thing; but when he had in these circumstances entered into a war, the people refused to fight, and the subsequent disgrace and ruin which was brought upon that poor unhappy deluded monarch is well known. A people who discover a concerted plan to enslave them at home, have no motive to resist the imposition of a foreign yoke; their motives urge them to another effort to defeat and destroy the domestic enemy, and render the fatal attempts of an iniquitous administration ineffectual. Let me not, however, be supposed to insinuate that we should tamely suffer the insult of Spain; I wish to see Great Britain do herself justice, but I know that, till our rulers have the confidence of the people, it is impossible. As the first requisite, therefore, to obtain justice abroad, let the people be satisfied at home. Britons, while liberty remains, will fight for liberty, but, when that is gone, they can have no motive to draw the sword: they will never fight to arm despotism with new power, nor strike a blow which can only rivet their own chains.

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We may recollect other weak princes who ruined their country by such oppressions as made their subjects refuse to fight in its defence. Our ancestors abandoned king John, in consequence of which he lost all his foreign dominions: and Edward the 2nd was, from the same cause, deserted in his war with the Scotch. Instances of the same kind, and of equal force, may be found in more ancient history. The Romans, under the oppression of the Decemviri, did not only refuse to fight, but to conquer; for they would not face those when under oppression, who, when the oppression was thrown off, would not face them.

If I should be asked what we must do to recover the public confidence, and unite the people in their defence against foreign enemies, I answer "reverse our decision on the Middlesex election." To hope for the public confidence without this is madness and folly; it is also madness and folly to hope for supporting a war without the public confidence. What, then, shall we think of those who have at once destroyed the confidence, and preserved the hope? With such men I know that reason can have little influence; but if they are deaf to the voice of reason, if they are callous to the sense of justice, if they have no compassion for the present age, nor any regard to posterity, let them at least, make this sacrifice to their own safety, and the stability of the crown, and let them for once do an act to preserve themselves, which may appear like attachment to that master and that family, whose service and interest they have so often on their tongue.

Colonel *Barré*:

Sir; I cannot indeed, boast more weight in this House than the hon. baronet who spoke last, yet I will join my efforts, however feeble, to those of my friends: I will, at least, hang out the beacon from the rock, though I cannot change the course of the vessel. It is unnecessary to say that I agree in a position of which I think no man can doubt, that the people cannot heartily concur with our present ministers in any measure, least of all in a war. Immediate evils always strike the mind with greater force than those that are remote, and the dullest imagination may at once discover that a war will necessarily increase taxes and places, and consequently extend the power that is now delegated to those who abuse it for the worst purposes, and assist the progress of despotism by corruption; and can it be expected that the people will support men whose encroachments on liberty always keep pace with their power, to avoid the distant and contingent evils that may arise from an unjust act of a foreign power? What will be the consequence of a war undertaken by a prince who has not the support of half his people? If his late majesty had engaged in the last war under such circumstances, could we have expected such glorious success? The great minister, to whose wisdom and spirit the public affairs were then confided, knew that there could be no vigour abroad without unanimity at home; he began, therefore, by producing one mind in the people, and he then involved our enemies in one ruin. Can we produce the same effect any otherwise than by the same cause? And ought not our sovereign to buy again the affections of his people, which his ministers have treacherously sold, at any price? With this Family Compact he may set the force and machinations of all others at defiance, and without it no prudent senator will advise a contest. Whatever talents I possess are always at the service of my country; not that I solicit employment at the hands of the present ministers, for whoever associates with them must bring disgrace upon himself, and ruin upon his country.

But do not let me censure any conduct without examination. Let me consider what our ministers have done with respect to the present object in dispute with Spain. They were acquainted with the attack of Falkland island in the latter end of May, or the beginning of June; did our ministers deem this act of hostility an effectual declaration of war? did they immediately prepare for striking a decisive blow, which would have brought into our ports the Newfoundland ships and sailors of our enemy, and at once ruined their marine? No—but as they had before degraded their royal master for two years with a wretched libeller at home, they now brought him into contest with a little Spanish officer. The foes that rouse the vengeance of England are John Wilkes and Don Francisco Buccarelli! these are the buzzards and owls on which the lightning of our royal eagle is exhausted! But when our guardians were at length roused from their stupefaction, what did they do? what harbours did they improve? what forts did they repair? what cities did they fortify?

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have they strengthened the lines at Quebec? have they secured that spot which, if taken by the enemy, will ruin our fishery? have they taken any step towards the defence of those sugar islands which are most exposed to the insults of an enemy? Let them stand forth and answer. They will say, perhaps, that at least they have taken precautions for the safety of Gibraltar; but I deny it. I know, indeed, that, when the troops from Ireland arrive there, the garrison will consist of nine battalions, but whoever supposes that number to be sufficient, knows nothing of the service. More instances might be pointed out in which we are left vulnerable, but it would be, I will not say treason, but impiety, to point them out: and I should hold myself inexcusable for what I have already said, if I did not know that our enemies are already apprised of all they could learn from it. Our minister, during the course of the last session, promised us a ten years peace. We knew nothing then about Falkland island, yet I ventured to doubt his prediction, and gave my reasons: they were called, indeed, the suggestions of faction; however, I had the pleasure to hear the gallant admiral, who now sits at the head of our marine department, so far countenance my opinion, as to declare, that whoever should hold his place the next year, would find it necessary to call for an augmentation of 6,000 seamen. These forebodings of the admiral were as little regarded as my factious suggestions; but though I then thought a war approaching, and the first stroke has now been given by our enemies, I am of opinion that it might easily have been prevented, if we had acted with steadiness and spirit in the negociations relative to Corsica.

During these negociations, I happened to be at Paris, and I affirm as a certain truth, that the French would have deemed our intervention in favour of the brave islanders, as an act of friendship to them. The vast expence of life and treasure which they had incurred, had exhausted them, and they would have thanked us for an honourable pretence to withdraw from a scene of perpetual distresses. But we then acted like poltroons, and poltroons will always be insulted; now indeed, we affect the bully, but what can we do? who can make proper arrangements for a war, supposing that a war could be supported? Let me ask our ministers, whom they will appoint for a commander in chief? he who could have filled that office with dignity and ability is dead; and who can refuse a tear to his memory? His first object was the interest of his country, his second was the glory of promoting it: he despised money, and appropriated all the influence which his talents and his courage gave him, not to his private emolument, but the public advantage. He might have directed our military councils with advantage; but he is gone, and where can such another be found!

Our distresses, however, are not without consolation, we have an excellent Secretary at War; a secretary whose dispatches may be safely trusted to our enemies, since it is impossible that our friends should understand them. Such were some of his letters to the governor of Gibraltar, during the last war, some were contradictory, and all were confused. This lost us Minorca; and if his talents produced such notable effects, when he was in a subordinate department, what may be expected when he is the supreme director! That he can write intelligibly, and give spirit to our troops, for such purpose as wisdom sees fit, we have a memorable instance in the destruction of his Majesty's subjects in St. George's Fields. I wish the ministry joy of such a superintendant of the military department, but am sorry that I cannot pay the same compliment to my country.

Lord *Barrington:*

Sir; it is impossible I should hear the many charges which are brought against me with indifference, however ill founded, and therefore I hope this House will indulge me a few words in my defence. My enemies have made exceptions to two of my letters; and considering the many hundreds of letters, I had almost said, the many hundreds of thousands, that I have written during the ten busy years that I have held my present office, it is more honour to me that they have been able to make exceptions against no more, than disgrace, that they have excepted against those, even supposing that their censure is well founded: it has generally been supposed, that the necessary patibility of human nature requires some allowance, but my accuser seems to think otherwise; it is however fortunately in my power, upon the present occasion, to disappoint his malice without controverting his opinion. My dispatches to the governor of Gibraltar were submitted to a court mar-

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tial, and to this honourable House, and I stood acquitted by both. I must, therefore, hold my censure very cheap, and indeed, have little reason to regret that my name has shared the common fate of whatever is sacred and venerable among us. I am content to stand or fall with this illustrious body, and am proud that by the same charges which have been brought against me, their decision is called in question. But can my adversary without confusion and disgrace recollect, that the letters which he pretends to have been unintelligible and contradictory, were understood and executed by the person to whom they were addressed? To what subterfuge will he fly from so full a detection of malevolence and falsehood? With respect to the affair of St. George's Fields, I have profited from the persecution of my enemies, as Job did from that of the devil; to answer the dark purposes of a desperate faction, it was brought into this House, and though its whole force was exerted upon the occasion, the mover of the question could get no more than thirty-nine to divide with him against me. This is a proof that the accusation was groundless, for which I am obliged to that worthy gentleman, and his friends.

But the hon. gentleman has brought other charges that are more general, and I fear some that must be admitted. Administration did not, as soon as they heard that Falkland island had been attacked by a Spanish officer, seize all the French ships they could find, and it is equally certain that they suffered death to carry off the marquis of Granby at a time when he might probably be much wanted. What answer does the man deserve who makes these things matters of reproach? and how much honour do they gain, who drive their opponents into such absurdity, by giving their malice no other cause of complaint? I have the pleasure to tell the hon. gentleman, what I believe he will not be very glad to hear, that he reviles and traduces me; I had the suffrages of the great commander, the honest man, the liberal patriot, whom he affects to lament, in my favour; I esteemed and loved him; and if either his word or actions are worthy of credit, he esteemed and loved me; we were sometimes divided in our political sentiments, but our friendship was inviolable. The hon. gentleman asks, where we shall find such another? to which I reply, that I cannot tell. Will this also become matter of reproach? If any member can point out a proper successor, he shall have my approbation. The hon. gentleman thrusts himself forward, with the amiable modesty that distinguishes his character; but as I have no opinion either of his head or his heart, I will not give my advice that he should be appointed successor to the marquis of Granby.

Mr. *Edmund Burke:*

Sir; the defence which the noble lord who spoke last, has been pleased to make of his conduct, is a very pleasant sally of his fancy, and a very polite compliment to this House. The noble lord has not attempted to shew the rectitude of his measures upon any principle of truth and reason, but he says that in every thing for which he has been censured he had your concurrence: this, however, while the exceptions to his conduct remain unremoved, is rather proving you to be wrong than himself to be right. He attempts his justification not by works but by faith; he has laid his sins upon you, and I dare say, in the day of account, would be very glad to make you the propitiatory sacrifice, and avail himself of the atonement. I apprehend, however, that you have iniquities enough of your own to answer for, and that it would be prudent not to take upon you the iniquities of others. No supposed criminal has any pretence to blame his accuser, till he has exculpated himself; why, then, should the names of faction and sedition, by which he has thought fit to distinguish the motives that induced me to bring the affair of St. George's-fields into this House, move my choler. The measure was laudable, whatever were the motives, nor need the noble lord, to take the part I acted so much in a dudgeon; I was not the first that accused him, I gave him, indeed, an opportunity to vindicate himself if he was traduced; and surely, if he had been innocent, he would have been obliged to me for that.

But why did the noble lord exert all his influence, and all his oratory, to prevent an enquiry? There is but one reason, I believe, and of that no person in this House is so dull as to be ignorant. It is true, that upon a division, I was joined by no more than 39; but I was not surprised at that.* The share which a great personage had in the transaction that I arraigned, rendered many patriots who are

* See p. 602 of the present volume.

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flaming enough on other occasions, extremely cool upon this. Their virtue was chilled by the fear of giving offence, and a man of more prudence than I profess, would have followed their example. If I had done so, I should not, perhaps, have been accused of faction and sedition. But to shew the noble lord that neither fear nor dependency have altered my principles, or shall alter my conduct, I here pledge myself to him, to this House, and to the public, that I will bring this affair once more into question during the course of the present session. Such materials have since come into my hands, that I hope to see it meet a fate very different from that which attended it last year. Much indeed, is not to be expected from this soil, yet I will do my duty, I will plant, it is your part to give the increase.

The noble lord, I think, too hastily concludes, that the two letters which have been excepted to are unexceptionable, and that those two are all against which exceptions can be brought. As to the first, he seems greatly to pride himself in the testimony of a court-martial, but his pride may be humbled. Court-martials, as well as Houses of Commons, have erred: they have no more claim to infallibility than a pope or a council. A court-martial acquitted Lestock and condemned Matthews; but the public has since passed a different sentence, and posterity will approve the decision. I wish the noble lord may not find that his conduct will fall under the same condemnation. In my opinion, he has no more cause to triumph over us, than his fellow labourers in the political vineyard to triumph over the Americans; because the colonists have begun to import, they cry out victory: but the colonists are still true to their first principle, and still act steadily upon it. They determined to import no article that was taxed, where many articles were taxed they refused to import many, now tea only is taxed, they refuse to import tea: they have regulated their conduct by that of the ministry; as ministry rose in its pretensions, America rose; as ministry relaxed America relaxed. So that it is manifest, no advantage has been gained over them. The loss of their trade, their affection, and their allegiance has been hazarded, but the quarrel is as far from being compromised as ever; before America, therefore, can heartily concur in any measures which it may be necessary for Great Britain to take, her grievances must be redressed; and he who shall advise hostilities against the Bourbon compact, till a compact shall take place between Great Britain and her colonies, is a foe or a driveller. Nor is it also necessary, that the inhabitants of Great Britain should be compacted with each other, which can never happen till the complaints of the Middlesex election are removed. I do not say that we are not a legal assembly, I do not countenance the insolence of the capital, but I know that many wise and good citizens suspect us to be only a House of Commons *de facto* and not *de jure*; and while such an opinion prevails, none will pretend that it is safe for us to impose taxes and other burdens, which we cannot but render necessary, but those the policy and prudence of which are of the same cast with those of our ministers.

Sir, any other men would have foreseen the harm that is now bursting over our heads, or at least have trusted to the warning of those who had better eyes. I, among others, ventured to foretell it from the appearance of the political sky; but I was called a child of faction, and my optics were said to be jaundiced with discontent. Our wise rulers, easily believing what they wished, and foreseeing their own fall in a fresh war, would hear nothing about it. Spain preached to them in vain by her declarations; she preached to them in vain by her conduct, and refusing to hear them, they would not have believed, though one had risen from the dead. They have been held torpid by some Circean enchantment, and when at last they were roused from sleep, then it was some months before they could recover their senses: reason they never could recover, for they never had reason to lose; they jumped about like a squirrel at the sight of a cat, they leaped and squatted, and whisked their tail about, and ran into a hole; and in what hole did they take refuge? why the ministry of France. They applied to France as a mediator to accommodate their differences with Spain.

When they thus betray the interest and honour of Great Britain to our enemies abroad, can we wonder, that the Speech from the throne does not convey as much intelligence as a common newspaper to the people at home: this annual specimen of our ministers' art in government and rhetorick has every deficiency that can render them despicable; it is not sound sense, it is not grammatical English. They have for a year past acted as if we had not an

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enemy in the world, and yet it is evident from the King's Speech at the opening of last session, that they apprehended a war. Let the Clerk read the paragraph of that speech to which I allude.

This paragraph was read accordingly, and is as follows: "The uncommon burthens, which my subjects have borne so cheerfully, in order to bring the late war to a happy conclusion, must be an additional motive to make me vigilant to prevent the present disturbances in Europe from extending to any part, where the security, honour, or interest of this nation may make it necessary for my crown to become a party. The assurances which I receive from the other great powers, afford me reason to believe, that my endeavours will continue to be successful."

Lord *Barrington*:

Sir; if I have failed in that decorum of language which is universally due from one gentleman to another, I am sorry for it; political sentiments may be peculiar, good manners should be common to all; and I should be sorry to have it supposed that politics and good breeding are incompatible. Lampoons should have no place here, nor should our debates degenerate into the scurrilous affectations of wit and patriotism, that circulate with a newspaper. That my antagonist has religiously preserved the distinction I will not vouch; as to myself, I have never intentionally transgressed. In the warmth of a hasty speech, the words faction and sedition passed my lips; are they a trespass upon decorum? If they are, I cannot promise that I shall not be again guilty before I sit down; so that if the hon. gentleman's choler is moved, it is, I fear, out of my power to remove it. My antagonist is less modest than those who left a criminal unpunished, because they could not throw the first stone without assuming a freedom from sin. He has charged me with perplexity and contradiction, and he has in the same breath perplexed and contradicted himself: he has told us with his usual eloquence, that the ministry did not apprehend a war, and that they would not have apprehended a war, though it had been predicted by one risen from the dead; and he has told us, without sitting down, that the ministry did apprehend a war, and that they told this House at the beginning of the last session; as he has been pleased to prove his assertion by an appeal to the Speech, it is unnecessary to refute the first. But I cannot sufficiently admire the uniformity with which he blends his fanaticism of religion and politics. It is, I find, his opinion, that of professors themselves, a very few only shall be saved; in short, that even the patriots are damned, except himself, and the pious Thirty Nine. Who can but pity this good gentleman's perils among false brethren, who can but lament, that in these wicked and perilous times, political brethren should be false!

But he threatens me with a new accusation, when his brethren, having less temptation to treachery, will be more faithful to each other. I am, however, very easy under this formidable menace; he may throw down his glove when he pleases, I am ready to take it up. If he enters the field with as many offensive weapons as a ninety gun ship, I shall hold him as cheap as if he had only a rattle and bells: if he comes with his tropes and figures, I shall wrap myself up in my integrity, and I dare say, he will find me invulnerable. I wish the hon. gentleman was as sparing of our time and trouble, as he is liberal of his own breath and lungs; he would not then think of proposing, that the House should consider, as a serious charge, what it has already determined to be a groundless calumny; or hope, that having already expelled John Wilkes, for saying little more of the riot at the King's-bench, than we have heard to day, it would, at his instance, come to a Resolution of adopting John Wilkes's principles. Such a notion is the height of absurdity, and only worthy of the head which conceived it. But the hon. gentleman loves to exercise his eloquence, and by idle declamation upon fictitious topics, to prepare himself to show away, if he shall be lucky enough to find an occasion, among the realities of life. Will the House indulge him in this? If any hon. member makes the motion, I will second it; but if he could be persuaded to transfer the scene of his declamation to the school of his countryman Sheridan, I think he would act with more propriety and discretion.

Lord *North*:

Sir; after all the oratory that with such amazing profusion has been poured out about the governor of Buenos Ayres, and John Wilkes, and the island of Corsica, and a mediator with Spain, I will just beg leave to remind the hon. gentle-

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man, that the subject which now lies before the House is an Address. I do not find that any of our orators have proposed to amend it, and I must therefore conclude it to be the sense of this House, that the Address has no material imperfection, and may be presented to his Majesty in its present form.

Sir, our patriots upon this and many other occasions, make me think of a man who had but one story to tell, which every incident served alike to introduce: his story was about a horse; and if any body happened to mention a poker, he would say, now you talk of a poker, it puts me in mind of a very good story about a horse; so if a lady took out her snuff-box, he was still ready, seeing a snuff-box, said he, puts me in mind of a very good story about a horse. So our patriots make every thing an occasion for a common place declamation against wicked and foolish ministers, and patch together scraps which one of them retails in the newspapers, and others carefully glean up; one half of them being constantly dupes to the artifices of the other.

Some expressions, however, have been thrown out, which I cannot let fall. It has been insinuated by one hon. gentleman, that the ministers by their want of spirit in the affairs of Corsica, have made war inevitable which might have been prevented, and at the same time raised such jealousies and discontents in the nation, that the King must go to war with half his people. As to the affair of Corsica, the hon. gentleman may perhaps have been enlightened with intelligence which others have not been so happy as to obtain: I confess that with respect to myself his assertion wants evidence. I think on the contrary, that the consequence of our interfering, would more probably have brought on, than prevented a rupture, and then who would not have blamed the ministry for not allowing the enemy to waste their blood and treasure, in the acquisition of what, perhaps, they had better be without?

But, supposing that a rupture is now inevitable, we are told that the King will go to war with half his people: if gentlemen had as much ability as inclination to deceive both our friends and our enemies, they would throw out improbabilities somewhat less extravagant and absurd. Can any mortal, who does not read the Persian Tales as a true history, believe that because we have little political squabbles among ourselves, that the people will throw off at once their allegiance, their interest, and their honour, abandon their lawful sovereign, and offer their necks to a foreign yoke! This, surely, is the raving of a madman, or the dream of an ideot: he that has sense to feed himself, or reason to distinguish rags and straw in a cell of Bedlam, from the trappings of royalty, can never draw so monstrous a conclusion. This nation is still in power and principle the scourge of France; to insinuate the contrary, is to reproach and insult it. It will ever unite against the Bourbon confederacy, and close round its prince like a wall of brass, whenever it shall be called to his defence: it will be time enough to adjust domestic differences when the common danger is removed.

But, says an hon. gentleman, we have degraded our sovereign by a contest with a pitiful governor of Buenos Ayres. Would it not have been equally true, if we had immediately rushed into a war, that we were involved in a contest about a pitiful island? Could the intrinsic value of Falkland's island be deemed a sufficient cause for war? If not, it was a proper object of negociation; and if so, what could be more prudent than to leave an opening for accommodation, by referring the act in question to the governor of Buenos Ayres, which the king of Spain might, if he pleased, disavow? An hon. gentleman, indeed, has told us, in one of those beautiful tropes for which he is so famous, that Great Britain solicited the mediation of France: but where has this hon. gentleman got his intelligence? Probably from the newspapers, those oracles of knowledge and truth, which he says convey more intelligence of national affairs than the King's Speech: we all know the hon. gentleman's partiality for these vehicles of political knowledge; yet I may, I think, without excessive vanity, pretend to as much knowledge of the matter as the hon. gentleman from other sources, and I declare I know of no such solicitation. Great Britain had no need of a mediator; and therefore could not apply to France to mediate. If she had stood in need of a mediator, she would have wanted a protector too, which could not be the case, as she is at this moment the first and greatest power in Europe, or at least, one of the first and greatest. Another hon. gentleman has sagaciously observed, that we have not secured all the British possessions from danger; he might as well have

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observed that we could not shut up all the British dominions in the Tower of London. Will the hon. gentleman undertake to secure the British dominions in their whole extent from any sudden blow, in case of a war, with twice the number of troops that are in British pay? If he will stand forth and say so, I think his courage cannot be doubted, whatever we may think of his wisdom. As to what has been called my prophecy, I disclaim it; I said, that I then thought war at a distance, and I still say that I had good reason for thinking so; I mentioned several advantages which would accrue to Great Britain if the peace should last two years, and ventured, upon the strength of calculation, to specify what part of the national debt would by that time be paid off. For this I am accountable, and am ready to answer any charge that shall be engrafted upon it. But as I make no pretences to infallibility with respect to any subject, much less with respect to future events, I can never be said to have uttered a prophecy when I delivered my opinion, nor to have forfeited any claim of man upon man, even if I should appear to have been mistaken.

Colonel *Barré* produced a copy of what he had called a prophecy, which he said he took in writing when it was spoken: but as lord North admitted that he had delivered it as his opinion, the producing the words in writing, answered no purpose: if the dispute had been about the purport of what was said, the written words would have determined it, but they had no tendency to prove that what was delivered as opinion, was matter of reproach as a pretension to prophecy.

Mr. *Burke* also offered some explanation of what he had said concerning the mediation of France.

Sir *Charles Saunders* observed, that as the Address was an approbation of the conduct of ministry, it would be improper to agree to it, before any enquiry had been made whether their conduct deserved approbation: it was therefore his opinion, that the captains of the Tamer and Favourite sloops should be called to the bar, and give an account of what the Spaniards had done, and what information the ministry had received.

Mr. *Dowdeswell* then replied:

Sir; if the minister had not on former occasions given me a perfect idea of his understanding, I should have been surprized at his manner of arguing to-day, and particularly at a conclusion which he has just drawn. He says, that "as no proposal has been made to amend the Address he must conclude that it has no material imperfections:" unfortunately for him, or for me, my conclusion is just contrary from the same premises. As no proposal has been made to amend the Address, I conclude that it cannot be amended; that it is not faulty in particular parts, but is uniformly and totally wrong: this is my reason for proposing no amendment, and it may therefore naturally be supposed to be the reason why no amendment has been proposed by others. Would not any other apprehension than that of the minister have discovered, that the whole Address was censured by a censure of every part of that conduct which it approves? What is the Speech but a detail of ministerial conduct? And what is the Address but an approbation of that speech, paragraph by paragraph? Every gentleman, in the interest of his country, who has spoken in this day's debate, has proved the conduct of ministry to be neither able nor honest. They have lost the confidence of the people, yet imagine the people will support them; they have threatened the colonies with unrelenting severity in the pursuit of an unconstitutional measure; yet suppose we shall suffer nothing from the alienation of their affections: they are ruling Ireland with a rod of iron, and yet pretend that they are making no advances to arbitrary government; they have been blind and improvident with respect to the designs of our enemies, and yet suppose that there is no danger of their being carried into effect: if this is not weakness, inconsistency, presumption and folly, let them tell us what is.

Something, indeed, they have said, when a reply to these charges has been expected, but it is no more a defence than the pretences of a thief at the bar, who when the goods which he stole are seized in his custody, pretends that he found them in the street. In answer to the most material charge indeed the minister has said nothing; the whole party have not had sufficient invention to suggest one plausible excuse for keeping the nation naked and defenceless, after authentic intelligence of the insidious designs of the House of Bourbon had been received.

Sir, we call ourselves the representatives of the people; why, then, do we not express

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their sentiments, and echo their voice; why do we approve measures which they condemn, and express confidence in ministers whom they despise? In so base a prostitution for selfish purposes, so cruel a treachery against the public, I will never concur; and if I cannot prevent this House from becoming a mere tool in the hands of that power which it was intended to controul, and a screen for that perfidy which it ought to detect, I will at least enter my protest against it.

Lord *North:*

Sir; it must, to be sure, be difficult for a poor wicked minister, to make any stand against such eloquence and such virtue as the hon. gentleman has now exerted against him: and I confess myself unable to add any thing to the arguments which have already been urged in my defence, and which the hon. gentleman and his friends affect to treat as wholly inconclusive and unsatisfactory; yet I have heard of those who neither see with their eyes, hear with their ears, nor understand with their hearts: I pretend to no charm by which such may be converted and healed: I can exhibit reason and truth, but I cannot give candour or understanding. I have no miraculous powers, and if I had, I believe, I might exert them all to no purpose, except that of multiplying loaves and fishes, the distribution of which, would, I am persuaded, have a wonderful effect. There is, however, one particular, which among the many topics that have been offered me, I have overlooked, and I am obliged to the hon. gentleman for reminding me of it; the ministry have been accused of tardiness in arming the nation. I remember a country parish that was accused of want of loyalty for not ringing the church bells upon a particular occasion; the parish officers said, that they had many things to alledge in their justification, one of which was that their church had no bells to ring. My defence is equally easy, the nation could not have been armed sooner.

Every body, except the gentlemen in the opposition, knows, that our fleets cannot be fitted out except when our trade is at home, or just coming home, because sailors are at no other time to be had: and every body except the same gentlemen knows, that at the time when we are charged with having criminally neglected to fit out our fleets, the trade was neither at home, nor just coming home, and that therefore no sailors were to be had. As the ministry therefore could not arm effectually, it was thought prudent not to appear to arm at all. If Great Britain had armed as far as it was in her power in June, France and Spain would have done the same, and not being under the same disadvantage, would have done that effectually which we could have done only in part; they must, therefore, have got before us: whereas, making no appearance of arming till we could completely effect our purpose, we have got before them. If two men were to run a race, would either of them chuse that the signal for starting should be given before he was able to set off? We knew that if our adversaries did not start before us, our activity and strength would give us the advantage. But that if they did, we might not be able to overtake them; we availed ourselves of this knowledge, and the event has justified our conduct.

I have now, I hope, answered the mighty objection upon which the hon. gentleman supposed me to have been silent, because it was unanswerable; upon what now will the tooth of envy attempt to seize? Will the dull tool of a desperate faction, with the slow and frigid malignity of a viper, turn upon the crown? Has it not opened its jaws upon the crown already? An Address is a compliment to the throne, not an approbation of a minister; if a minister has acted amiss, there are methods of enquiry and censure well known, which involve no other character. But I leave the virulence of faction to prey upon itself; the hon. gentleman is too cold a member to make it dangerous to others.

Mr. *Dowdeswell:*

Sir; I confess that the noble lord discovers more heat, aye, and more smoke too than I. But there may be smoke and heat without light: there may be noise and fury without eloquence, and confident assertions without truth. I see a formidable phalanx of two-legged arguments ranged behind the noble lord, and they may indeed very well inspire him with a decent assurance: besides, he is of too long standing to be troubled with the *infans pudor;* he is an old member, though not an old man; and it is no wonder, therefore, that his confidence is great, and his knowledge little. It is however something extraordinary, that with all his excess of assurance, and deficiency of wit, he should have ventured to affront the House by affirming that

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an Address of parliament is a mere compliment to the crown. Is he still to learn that parliamentary Addresses, are considered not only by this nation, but by all others, as the best criterions of the confidence which the House reposes in the king and his ministers? If he does not know this, he may well be supposed not to know that our enemies have been arming ever since they projected the capture of Port Egmont; but, then, what can we think of a great nation confided to such hands! Is it not in the same state with a vessel at sea, under the direction of a man who did not know the points of the compass; and in such a case would it not be the interest of every passenger to place a skilful navigator in his stead. I believe the minister is the only person in this House, who did not know, that our enemies have been augmenting their navy, improving their fortresses, and strengthening their harbours, without losing a moment, ever since they meditated the measure which we could know only by its execution.

Mr. Dowdeswell proceeded in the repetition of his charge against the ministry for not arming sooner, but before any answer had been given to lord North's principal defence that the thing was impossible, the question was much called for, and the Address being read by the Speaker, was agreed to without a division.

The following Report of the preceding Debate is taken from the London Museum for 1771.

The Speaker having read the King's Speech, as usual, the lord Greville stood up, and moved the Address in a genteel speech, well delivered.

Mr. *George Rice:*

Sir, I rise up to second my noble friend, who seems to have been equally happy in the sentiments and expressions of this Address. The first thing, of which it conveys to the public our opinion, is the great and important object of war. His Majesty, though ever studious to preserve the general tranquillity, as well as the peace of his own dominions, finds the ambitious and restless spirit of his neighbours threatening Europe once more with the calamities of war. The violence committed by the governor of Buenos Ayres is an indignity, in which the imperial crown of Great Britain cannot tamely acquiesce. The majesty, and the honour, and feelings of the King, are too deeply wounded, to let it pass without ample reparation. I trust that he will find his faithful Commons equally zealous to vindicate his and their claims, and to extort satisfaction by force of arms, if negotiation should fail of procuring justice. I trust that the gallant spirit of this nation will keep pace with his wishes, and burn with equal ardour to wipe off every disgrace, to chastise every insult. It is not that I think the barren island of Falkland an object worthy of much attention. Were the loss of that insignificant desart the only disadvantage with which a tame acquiescence, at this juncture, would be attended, it would not be worth our while to endanger, for its sake, the life of a grenadier. Nor do I counsel vigorous measures, because, I think, this nation has no need of establishing its credit for conduct or courage. No, thanks be to our gallant troops, they have raised us above all disgraceful imputations, and rendered our character for military prowess more the object of envy than of contempt. We have no occasion for war, in order to acquire a reputation in arms. We have no occasion for war, in order to gain a more extensive empire, or a greater trade. In all these respects, nothing is left for the wantonness of our imaginations to wish. If there was, we know arts more friendly to the human race than bloodshed, plunder, and devastation. To others, we leave the horrors of enriching themselves by the destruction of mankind, while floods of wealth pour in upon us, from connecting the different nations of the globe, by the interchange of favours and benefits. Let us, if at length reluctantly compelled, draw our avenging sword, only to prevent the repetition of insults, to repress violence, and to humble the pride of encroaching ambition. This measure we may embrace with the greater confidence of success, as our colonies, influenced by the prudent, yet spirited measures of administration, have returned to a sense of their duty. Our trade in that quarter of the world has revived, and will, in all probability, soon recover its former lustre. Though the province of Massachuset's Bay still continues obstinate, there is reason to apprehend, that the example of other colonies, and the continuation of the plan of politics, which has already produced such salutary effects, will at last operate, and bring it into the general vortex. Then, if necessity should force us into a war, we shall be enabled to fall upon our enemies, with

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the whole weight of an united and well-compacted empire. We shall, no doubt, find it difficult to raise the supplies, without burthening the subject. But, will that difficulty be peculiar to us alone? Our enemies will be still more embarrassed. Their finances are in a much more perplexed situation. Who, then, can doubt, but his Majesty will find that there will be no other contest among his people, but that of shewing a superiority of zeal in the support of the common cause? Your resolution on this occasion will, I am persuaded, evince to our dismayed enemies, whether foreign or domestic, that, in checking the usurpation of the Bourbon line, Britons have but one heart and one voice.

Sir *William Meredith*:

There is something pleasant, Sir, in the language, as well as in the train of reasoning adopted by our ministers. They persuade themselves that their measures will be cordially supported by the people, while the people are at variance with them and their measures. They expect that there will be no contest, but that of displaying a superiority of zeal in support of the common cause, forgetting that the nation can never make a common cause with those whom it has found to be common enemies. It seems they are resolved to be consistent, and not to deviate, on this occasion, from the same prudential maxims, which have hitherto directed their conduct, and rendered their plan of politics so successful and satisfactory. The hearty concurrence of the kingdom, they deem as a just reward for having violated its most essential rights. Nor is this surprising in men of their principles and talents. Their administration being only a transcript of the measures pursued by Charles the 1st, why should we wonder that they should preserve the same character to the last, and complete the tragedy?

——"Servetur ad imum
"Qualis ab incepto processerit et sibi constet."

Charles, while openly invading the franchises of his people, had the temerity to engage in a war. What was the consequence? The injured people would not fight, and thus brought disgrace and ruin upon the head of the deluded and devoted monarch. Men will never discover spirits or valour, when they have no confidence in their leader. Much more will this be the case, when they dread greater calamities from their leaders, than from the very enemies they oppose. Domestic slavery is no less terrible than a foreign yoke, even where the yoke is certain. What, then, will it be, where a foreign yoke is but barely possible? The danger with which we are threatened by France and Spain, is distant and uncertain; but the blow aimed by our ministers at the vitals of liberty, the most precious of all possessions, is imminent and undoubted. Can it, then, be expected that Britons can sally forth, like Quixotes, in quest of distant enemies, while foes more formidable, because insidious friends, remain behind in possession of the city, of the citadel, and every palladium of the constitution? Never believe it. They cannot exert their native gallantry in defence of that liberty, which no longer exists. Being deprived of the character of citizens, they will not expose their lives for a master. Accustomed to fight for themselves, they will beware of encreasing the power of a despot, and forging their own chains.

Recollect, Sir, the fate of king John; abandoned by his English subjects, because they spurned at oppression, he lost his transmarine dominions, and laid the foundation of all his future misfortunes. Call to mind the catastrophe of Edward the second. In his war with the Scotch, fortune did not turn her back upon him, till he had first provoked her desertion. A people of generous and free spirits discover, in such circumstances, less valour than confirmed slaves. Their souls, distracted between hope and fear, are unmanned by the anxiety of suspense. The Romans, oppressed by their decemvirs, refused not only to fight, but to conquer. They fled before those foreign enemies, who durst not face them, when they had once quelled their domestic foes. Such are the effects produced by the dread of losing liberty.

Of these truths, Sir, all our great princes were so fully convinced, that, before they embarked on the perilous ocean of war, they saw all the storms of civil commotion laid, and internal peace and union restored to all their dominions. Thus supported by the love and united strength of his subjects, Edward the first conquered Scotland. Thus supported, Edward the third victoriously traversed France, and annexed Calais to the crown of England. Thus supported, Henry the fifth quartered the lilly with the rose, and left the fair possession to his son.

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But why should I expatiate farther on a point so manifest in itself, that it hardly needs the testimony of history, which is so explicit in its behalf? Nothing but the perverse obstinacy and unenlightened politics of our present ministers could stand in need of any admonition on this head. Had they not avowed it, both in the Speech and in the Address, no sober man could have suspected that they would count upon the concurrence of the nation, till our decision of the Middlesex election was reversed. The grievance is so enormous and intolerable, that none, who deserve not a cell in Bedlam, can reasonably hope for such an event. Of this truth, I have so strong a conviction, that though I know what little weight I have with the ministers, I cannot help conjuring them to take away this evil thing, this stumbling block, from among the people. If they will be deaf to the voice of reason, the call of justice, and the request of the nation, yet let them make this sacrifice to their own security, and to the stability of the throne. Though you should have no compassion on the present age, nor shew any regard to posterity, at least consult the safety of your own heads; and once in your lives do an act, which may prove your attachment to that master, and that family, of whose interests you pretend to be so tender.

Colonel *Barré*:

Sir; though fully convinced, by experience, of the little weight which I have in this House, yet I cannot, on this alarming occasion, help begging its indulgence, while I contribute my mite towards the general utility, and join the feeble efforts of my voice to those of my friends. The situation of this country is too critical to allow any man of spirit and honour to sit an idle spectator, with his arms folded, and his heart contracted into a stoical apathy. The times call for the exertion of every virtue, and every talent which the nation can boast. Far be it from me to arrogate a superior share of any perfection; I only lay claim to sincerity and upright intentions. To these qualities I owe, that on former occasions, you frequently lent me a patient ear. To these qualities I shall now be indebted for the same favour, for, I cannot doubt that you will, in the most important crisis, shew me that partiality, which you always discovered in the most trifling conjuncture.

Allow me, then, to declare, that I entirely agree with my hon. friend, in thinking that the people cannot heartily concur with the ministry in the prosecution of a war. For, not to repeat any of the arguments so forcibly and convincingly urged by him, is it not evident, that a new war will, by the increase of taxes, places, and pensions, extend the power of the crown, and consequently render it more and more difficult every day to stem the torrent of corruption, and the progress of despotism? With this melancholy prospect before its eyes, can the nation cheerfully support men, whose encroachments on liberty have always kept pace with their power, whose perverse obstinacy and mistaken politics, will not allow them to make the least compensation to the public, or the least sacrifice to the general security? Human nature forbids us to harbour such a thought. The heart of man revolts at the idea of strengthening the hands of those, in whom it places no confidence. In such a situation, the people and their rulers can no more incorporate, than vinegar and oil. Like non-electrics, they will repel each other, and preserve an eternal antipathy. Who then can, without sorrow, behold his sovereign going to war with only half his people at his back? Who can forbear to wish that there may be reserved in heaven some chosen bolt, red with uncommon fire, to blast the wretches, who could reduce him to such an unfortunate situation? Had George the second engaged in the late war with such fearful odds against him, could we have expected such wonderful success? The great minister, to whose wisdom, spirit and magnanimity, we primarily owed the smiles of fortune, was fully sensible of this truth. As the groundwork, therefore, of vigour abroad, he restored unanimity at home, and then shook the power of France and Spain to the foundation. Ought not we, at this juncture, to follow the same course? Nothing can be more evident. The national grievances ought to be immediately redressed. His Majesty ought, at any price, to buy the affections of his subjects; for, in the day of trial, this is the family compact, the wall of brass, on which he must depend. It is not easy to foresee what effect the imposition of new taxes, or a misfortune in war, may have on the people, while their minds are soured by unredressed grievances, and odious ministers. No prudent senator can advise his sovereign

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to make the experiment. If this conciliatory scheme is adopted, then, and not till then, may we expect to carry on a successful war. Then will our military officers act with spirit and zeal, and emulation. Nor should I refuse my share of the danger. Whatever talents I possess, are ever at the service of my country. Not that I solicit employment at the hands of our present ministers: no; let them not think it. While they steer the helm, I am sensible that no commander can expect any thing but disgrace. I cannot, therefore, wish to heap red-hot coals upon my own head, or to be with them accessary to the ruin of my country. Had I even some opinion of their talents for the management of a war, yet would their politics be an unsurmountable barrier between us. For however low opposition may be reduced, on its present ground it will be always honourable. Should we dwindle to ten, we shall always go out of this House, ten respectable figures, still reminding the nation of what its representatives ought to be.

But here, Sir, I may be perhaps thought too severe. Let us then examine their conduct. About the latter end of May, or the beginning of June, they were acquainted with the fate of Falkland island. At that time they learned that the governor of Buenos Ayres had sent a frigate or two to warn our troops to quit the island; that our commanding officer had threatened to blow them off, if they would not depart; that the Spaniards, in consequence, declared their resolution of employing force, since fair words had failed, and that there was no doubt but they would put the scheme in execution. Where their interest or pride is concerned, the Spaniards are pretty tenacious of their words: and it could not be supposed, that the governor of Buenos Ayres, would, in this case, belie the character of his nation. But, asks my hon. friend, who is this governor of Buenos Ayres, this mighty potentate, against whom the King of Great Britain is going to draw his sword? I will tell him. When at Gibraltar, in an inferior station, I confess, I happened in an excursion to meet this governor, this Don Francisco, whom our ministers consider as so great and formidable. For a Spaniard, he was not a bad companion; he could circulate the glass pretty freely; in a word, he was a very good sort of a gentleman: but I do not believe that he had at that time the most distant hope of ever entering into a competition with the King of Great Britain. But our ministers were made for rendering absurdity fashionable. As they have, for these two years, degraded their royal master by a quarrel with a wretched libeller, so now they commit his dignity in a contest with a little Spanish officer. The terrible foes that rouse his vengeance, are John Wilkes, and my old friend Don Francisco. What is this but breaking a fly upon the wheel, or making Jupiter hurl his bolts against a pigmy? These are the buzzards, these are the owls, on which they exhaust the lightning of our royal eagle? How much more honourable would it have been, to have at once considered the king of Spain as the aggressor, as the delinquent? It is evident, from the coolness and deliberation with which Don Francisco acted, that he acted under the authority, and by the express command of the Bourbons. If he had not, he would, ere now, have forfeited his head. Why, then, did not our ministers, upon the first intelligence, deem this act of hostility the most explicit and effectual declaration of war? Why did they not immediately arm the nation, and prepare for striking as decisive a blow as that which secured us the superiority the last war? This step would have brought into our ports their Newfoundland ships and sailors, and effectually ruined their marine. Of this truth no person of common sense can entertain the least doubt; and, in fact, it is allowed on all hands. The most obstinate stickler for the ministry has here nothing to say in their defence.

But instead of embracing this prudent, this vigorous measure, they let the affair sleep for three or four months, as if time had no wings, as if they could always seize opportunity by the forelock. And, when at last waked out of their lethargy, what have they done? what harbours have they improved? what forts have they repaired? what cities have they fortified? have they strengthened the lines at Quebec? have they secured that spot, which, if taken by the enemy, will ruin our fishery, if it is not already ruined by their indolence, timidity or ignorance? have you taken any measures for defending those sugar islands, which, from their situation, are exposed to the insults of the enemy? what precautions have you taken for the safety of Gibraltar? I know, that when the troops from Ireland arrive, the garrison will consist of nine battalions. But whosoever

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told you this number would be sufficient, knows nothing of the service. I am confident, that every officer of judgment and experience, will coincide with me in opinion. You see, then, where you are vulnerable. More instances might be pointed out; but that were impiety. I should hold myself inexcusable, for what I have already said, were I not sensible that our enemies know them as well as we do. Such, then, is the situation of this country, to which our minister, in the course of the last session, promised a ten years peace. I stood up in my place, and ventured to call his prophecy in question; I gave my reasons, but they were called the suggestions of faction. The minister, trusting to his own sagacity and foresight, paid no regard to the forebodings of the gallant admiral, who now sits at the head of the marine department. That illustrious seaman, than whom I know not a better officer, nor a more excellent citizen, declared, that whoever occupied next year, the place then held by him, would be forced to call for an augmentation of 6,000 sailors. These words shew that I was not singular in my opinion, and that other respectable persons felt the approach of war. I know not what the opinion of the minister may be, but I still continue of the same. I smell war; a calamity which might have been easily prevented, had our negociators acted with spirit and resolution in the affair of Corsica. I happened then to be at Paris; and can with the greatest truth affirm, that the French would have deemed your interposition the part of a friend. Tired and exhausted with such an effusion of blood and treasure, they would have thanked you for any honourable pretence to withdraw from that scene of so many disasters. But you acted then like poltroons, and poltroons always bring upon themselves a succession of insults. And now, that like bullies, you hector and bluster, and run swaggering about, what will you do?

"Quid dignum tanto feret hic promissor hiatu?"

Where is there a man among you who can make the proper arrangements for war? whom will you appoint commander in chief? He, alas! who could fill that office with dignity and ability, is no more; and no friend of Britain will refuse his memory a tear. For when shall we see his like again? regardless of money, and studious only of true glory, he sought the applause and affection of his country, and he acquired them. His honour and integrity were unquestioned: his courage, which was of the most ardent and decisive kind, and covered him with laurels, so much the more honourable, that he did not employ the weight and authority thence derived to his own private emolument, but for the public good. Such virtue, rare at any time, was to be doubly prized in such an age as this. Such talents might have given life and vigour to our military counsels. But, snatched away when we most needed his heart and his hand, he is, alas! no more.

It is, however, some consolation under this distress, that we have such an able Secretary at War! His superior talents will make us amends for the loss of so great a character! That clearness for which his dispatches are so remarkable, is a sufficient earnest for his future achievements! In the last war, some of his letters to the governor of Gibraltar, were, if I remember well, unintelligible; some were contradictory, and all confused and perplexed. Hence the loss of Minorca. If his head produced such effects, when he acted only an under part, what may we expect from it, where he is the supreme director? It is not that the noble lord cannot write with sufficient perspicuity, where the question is to destroy his Majesty's subjects. There I confess the power of his eloquence. There he is quite intelligible. There he can inspire the soldiers with alacrity. I wish the ministry joy of such a superintendant of the military department; but I am sorry I cannot pay my country the same compliment.

Lord *Barrington*:

Sir; as the House has been pleased to listen to the charges brought against me, I hope it will hear a few words in my defence. Indeed, if I were sure of equal candour in other places, it would be an easy matter for me to wipe off every stain from my character. But since that is rather to be wished than expected, let me be satisfied with the testimony of a good conscience, and the approbation of this House. When the whole parliament has not escaped the tongue of calumny, why should I be ashamed or sorry that my name has shared the common fate of whatever is most sacred and venerable in the nation? I am content to stand or fall with this illustrious body, and with the greatest and best men our island can boast. Had I not been aspersed, I should have concluded that I was deemed an abettor of

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faction and sedition; and that I was in fact, as bad a man as my accusers represent me.

Sir, I have been employed ten or eleven years in my present office. In the course of this long service, which happened in pretty busy times, I have written many hundreds, I had almost said hundreds of thousands, of letters. Of all these, my enemies have been able to make exceptions only against two; and had these exceptions been justly founded, where would have been the wonder? in such a multiplicity of business, some mistakes are pardonable; the condition of humanity requires some allowance, because no man is infallible. My accuser seems to think otherwise, and has therefore cast the first stone. But what will he gain by his precipitate and unjust attack? confusion and disgrace. My dispatches to the governor of Gibraltar underwent the inspection of a court-martial, as well as of this honourable body. What was the consequence? I stood acquitted by both. Yet, after such an interval of time, there is found a man hardy enough to call their decision in question, and to say, my letters were unintelligible and contradictory. He has forgot, or did not chuse to mention, that the governor's conduct clearly proved that he understood them. How, then, could they be contradictory? the court-martial entertained a different opinion. And whatever he may think of his own judgment, I shall always hold it of less value than the voice of the judicature, which approved my conduct. He may assume the name of a patriot; yet I see no superior sanctity in that title to give him more insight into this matter, than those whose business it was to make it their particular study. Patriotism is not yet, I hope, the same as inspiration. By what channel, then, has he acquired his new light? like that of other visionaries, it will be found to proceed from the dark-lanthorn of his own monster-teeming brain.

A similar species of justification is applicable to the affair of St. George's-fields. Malevolence, in order to aid the voice of faction and sedition, introduced it into this House. But though the opposition was great and formidable, the mover of the question could get no more than nine and thirty to divide with him against me. Can there be a clearer proof that the accusation was groundless, and that my conduct, if not praise-worthy, was at least blameless? The point will not admit of the least doubt. Is not, then, this new charge rather an attack upon the House than me? Yes, certainly; and it is no small pleasure to me, that my enemies cannot wound me, but through the sides of such a respectable assembly.

Sir; the honourable member laments the loss of our late commander in chief. I join in his lamentation: for I always esteemed and loved that great man, and I have the best reasons to believe that he had the same attachment to me. However much divided in our political sentiments, we preserved private friendship inviolable: a circumstance which I think no small honour to myself. But, exclaims the hon. gentleman, "where shall we find another?" I protest I do not know. If any member can point out a proper successor, he shall have my approbation. For though the business may be tolerably well managed by the secretary at war and the adjutant-general, yet I call upon any gentleman to name a proper person fit to be commander in chief. However industriously the last speaker thrusts himself forward, I cannot persuade myself that he is a proper person. I have not a good enough opinion of his abilities. Accordingly I will not give my advice that he should be appointed successor to lord Granby.

Mr. *Burke:*

Sir; I cannot help thinking, that this House is greatly obliged to the noble lord who spoke last. Instead of trusting to the internal rectitude of his conduct, and defending it upon that ground, he makes you a party concerned, and gives broad hints, that if he sustains any disgrace, you must have your share of it. Whatever his sins may have been, you have taken them upon your own heads; and he stands redeemed and justified. As the ministers have frequently made the King, he makes you the propitiatory sacrifice to atone for his transgressions. This is a compliment for which, I apprehend, you will not thank him; for, pure and immaculate as you are, you have enough to do to answer for your own iniquities. I hope, therefore, that, for the future, you will be a little more cautious in giving any delinquent the least handle for thinking himself acquitted, while he is only not condemned. The apology now made, ought, I am sure, to teach you this lesson. For, though you only forbore to enquire into the matter, when it was

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started in this House, he construes your forbearance into an acquittal.

When the noble lord reasons so logically, why should it move my choler, that he christens my motives for bringing the affair before this House, by the odious names of faction and sedition? My motives are of little significance; but, whatever they were, the act was laudable and constitutional. The voice of the people was loud and importunate in its favours; and a genuine representative ought to second their honest efforts. Nor ought the noble lord to take my conduct so much in dudgeon. I was not the first that accused him. I only gave him an opportunity of vindicating himself, if he was traduced. Why then, since he was so innocent, did he exert all his influence and oratory to prevent an enquiry? I believe none in this House is dull enough to be ignorant of the reason. Nor was I surprised that, on a division, no more than 39 joined me.* The share which a great personage had in the transaction which I arraigned, rendered many patriots, flaming enough at other times, extremely backward on this occasion. The fear of giving offence damped their virtue. A man of more prudence than I profess, would have copied their example. Then, perhaps, I should not be accused of faction and sedition. But if this be faction and sedition, I shall be factious and seditious all my life. To shew the noble lord that I do not repent of my conduct, I here pledge myself to him, to this House, and to the public, that I will bring this affair once more into this House, in the course of the present session. By the assistance of some fresh materials, which have come into my hands, I hope to see it meet with a fate very different from that which attended it last year. Much, indeed, is not to be expected from the complexion of this body. Yet I will do my duty. I will sow; it is your part to give the increase.

The noble lord values himself greatly on having, in such a multiplicity of letters, written only two that are exceptionable. But does it follow that he has been entirely blameless, because no more have been actually impeached? I should be inclined to draw a quite different conclusion, and to suspect that he must have frequently blundered, since he committed such capital errors in such momentous dispatches. It is not every day that the most ignorant and wicked men will perpetrate a capital crime. Nor let him be too proud of the testimony of the court-martial. Courts-martial, as well as houses of commons, have erred. They are no more infallible than popes and councils. A court-martial acquitted Lestock, and condemned Matthews. But the public passed a different sentence, and posterity approved the verdict. I wish the noble lord may not find that his conduct will fall under the same predicament.

Sir; to me the noble lord seems to tread close in the foot-steps of his fellow-labourers in the ministerial vineyard, and to crow over us with the same reason that they triumph over the Americans. As the injured colonists have begun to import, they conclude that their point is gained, and they cry out victory! But what ground have they for this exultation? The colonists have all along continued true to their grand original principle. As the ministers were not satisfied with the Declaratory Act, but reduced to practice a right, which should have been deemed only speculative; as they imposed taxes upon certain articles of commerce, the colonists discontinued the importation of these articles. As the ministers, in their great wisdom, chose to repeal every new tax, but that on tea, the colonists chose to keep pace with them in their scheme of reconciliation, and to recommence the importation of the articles which were again freed of taxes. But as the ministers thought proper, for the sake of preserving the right of taxation, to continue the duty on tea, the colonists, in order to deny this right, thought proper to continue their associations for the non-importation of tea. In short, they have invariably regulated their conduct by that of the ministry. As administration rose in its pretensions, America rose. As administration relaxed, America relaxed. Nor has any advantage been yet gained over them. Though the loss of their trade, the loss of their affections and allegiance, has been hazarded, the quarrel is as far as ever from a determination. They have in some measure copied the prudence of the king of Prussia, one of the most politic princes in Europe. When any foreign state lays a tax upon any goods exported out of his territories, what does he do? He immediately lays an equivalent tax upon some commodity exported out of their country. The Americans could not directly take this step, but they did

* See p. 602 of the present volume.

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what was tantamount; they entered into a solemn agreement to import none of the taxed goods.

Thus it appears, Sir, from this deduction, that the ministers have no reason to plume themselves upon the termination of the quarrels which they have revived in America, or upon any assistance which they are likely to derive from that quarter. Before the Americans can heartily concur in any measure, which it may be necessary for Great Britain to embrace at this juncture, their grievances must be redressed. The same irrefragable arguments, which were applied by my honourable friend to Great Britain, are equally applicable to them and the Irish. Their support must be purchased by the removal of every cause of discontent. This is the only magic, the only charm which can draw their affection, which can cement and unite the different members of the empire, and make it act, as if inspired by one soul. Instead, therefore, of charging the Americans with "very unwarrantable practices," and thus threatening them with coercive measures, the minister ought to have immediately proposed the repeal of the Tea Act, and to have adopted every other scheme of reconciliation. Thus formed by mutual confidence and attachment, into one firm and compact body, we may look our enemies in the face. He who gives any other advice, can hardly be an honest, much less a wise counsellor; and the minister who could not see and embrace this truth, is not, by his abilities, entitled to the station which he occupies. For if the Bourbon confederacy be not an object of terror, it is certainly no just object of contempt. He, therefore, who will not strive to exert against it the whole undivided strength of our empire, must either be a foe or a driveller.

But, why should we be surprised at this treachery, when the complaints of the people about the Middlesex election remain unregarded? I do not say that we are not a legal House of Commons, I do not countenance the insolence of Westminster and the capital; but I must and will say, that many sober and good citizens, who are swayed by the authority of Locke, and other constitutional politicians, may have their doubts on this head. They may suspect us to be a House of Commons only *de facto*, and not *de jure*. When such an opinion prevails, is it safe for us, at such a critical period, to take upon ourselves the odium of imposing taxes, and all the other burdens and evils necessarily attending upon a war? None will say so but those who are on a par with our present ministers in policy and prudence. As they have, by their cowardice or ignorance, involved us in a war, they would, by the exercise of the same virtues, render us incapable of carrying it on with success.

Sir, any other men would have foreseen the approach of this calamity; or, if blind themselves, would have profited by the sharp-sightedness of better eyes. They had sufficient warning of the storm, which now threatens to burst over our heads. I, among others, ventured, from the face of the heaven to prognosticate. But I was a "child of faction," and my optics were jaundiced with discontent. I could not read the political sky. Our wise rulers, easily believing what they wished, and foreseeing their own fall in a fresh war, would give no ear to any arguments on that head. Nay, when they received certain intelligence of the violence intended by Spain, and saw that her actions corresponded with the language and pretensions of her ambassador, they would not believe. Had one risen even from the dead, they would have remained infidels. Where their interest is concerned, they will be deaf and dumb and blind. Their benumbed faculties betray the stupor of ideots. Notwithstanding the repeated warnings they had received of the hostile dispositions of Spain, they lay plunged in the most supine security. They attended to nothing but their amusements and their libels, until at length your garrison, which was driven from Falkland's island with the yoke of a capitulation about their neck, knocked at their door, and told them it was war. Then, at broad noon-day, they opened their eyes, as if they had been surprised at midnight; and, like men between sleep and awake, they ran about in hurry and dismay, crying out war, and begging peace; bullying, and submitting: striking their heads against every thing they met; incapable of distinguishing foes from friends; till at length (like a poor skipping, fidgetting, fascinated squirrel, that jumps for refuge into the mouth of the rattle-snake) they concluded their wild, inconsistent efforts, by taking France for their mediator. To the mediation of France they apply, in order to accommodate our differences with Spain.

Sir; when this is the manner in which they consult the honour and dignity of Great Britain, why should we wonder that

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the Speech from the throne does not convey to this House as much intelligence as may be collected from a common newspaper? These fugitive essays, which die almost as soon as they are born, and hardly equal in duration the life of the ephemeron fly, communicate more knowledge than the master-piece, the annual specimen of our ministers in the art of government and rhetoric. Indeed, how should they not, when it is equally deficient in grammar, elegance and sound sense? Every thing, Sir, contributes to make us form a despicable opinion of administration. They have, for this year past, acted as if all Europe promised the profoundest tranquillity, as if all our enemies were lulled asleep; and yet it is evident, from the King's Speech, at the opening of the last session, that they apprehended war. What more is wanting to prove that their whole conduct is but a chaos of contradiction, ignorance, and wandering? That I may not be accused of making a false charge, I beg that you will desire the Clerk to read that part of the Speech to which I allude. [This clause was accordingly read, see p. 1047.]

Lord *Barrington:*

Sir; I should be sorry if I had any where failed in that decency of language, which one gentleman owes to another. However much we differ in political sentiments, we ought all to agree in observing good manners. For it is to be hoped, that politics and good breeding are not altogether incompatible. Lampoons, however acceptable in the region of newspapers, should find no place in this House. How else shall our deliberations be distinguished from the satirical essays in the public prints? whether my antagonist has religiously adhered to this rule, is more than I will pretend to vouch. As to myself, all I can say is, that if I did infringe it, such an overt-act was far from my intention. In the heat of discourse, the words faction and sedition passed my lips. Are they any trespass upon decorum? if they are, I cannot promise that I will not be guilty of the same rudeness, before I sit down. So that if the hon. gentleman's choler is moved, it is, I fear, out of my power to remove it.

Sir, I am threatened with a new accusation; but it gives me no alarm. A consciousness of the rectitude of my conduct makes me entirely easy. He may throw down his glove whenever he pleases, I am ready to take it up. If he enters the field armed cap-à-piè, with tropes and figures, I wrap myself up in my own innocence; and I dare say he will find me invulnerable. Were he as sparing of the time and trouble of this House, as he is liberal of his own breath and lungs, he would hardly bring such a vain question upon the carpet. Can it be imagined, that the House of Commons which expelled John Wilkes, for saying little more of this affair than has been now said, will pay any attention to what they have already determined to be groundless calumny? To think so is the highest absurdity, and worthy of the head which conceived it. But the hon. gentleman loves to be exercising his eloquence, and to be preparing, by idle declamations, on fictitious topics, for showing away on subjects in real life. Will the House grant him this indulgence? If any member makes the motion, I will second it; for when a young man discovers an appetite for praise, however boyish, it ought to be encouraged. But, if he could be persuaded to transfer the scene of his declamation to the school of his countryman, Sheridan, I think he would act with more wisdom and discretion.

Lord *North:*

Sir; much breath has been expended on this occasion, but to little purpose: for I do not find that any one of our orators has proposed any amendment to the Address, which is the subject now before the House. I must therefore conclude, that it has no material imperfection, and that it may, in its present form, be presented to his Majesty, as the sense of this assembly. But though no solid objection can be made to the Address, occasion has been taken from the words of the Address and the Speech, to arraign the general conduct of the ministry. It is insinuated, that their measures have raised such discontents, and incurable jealousies among the people, that the King must go to war with only half his people at his back. I wish the hon. gentlemen had been a little more cautious and moderate in their expressions. Is it credible, that, on account of any political squabble among ourselves, the people will abandon their lawful sovereign, and risk the danger of a foreign yoke? Such a thought is absurd and extravagant, and can only proceed from a distempered imagination. The nation will be unanimous in chastising the Bourbon confederacy, and the King will find, that

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they will all form a wall of brass behind. The common danger being removed, it will be time enough to think of adjusting our domestic quarrels. But say you, who can second the operations of those, who have degraded their sovereign, by a pitiful contest with the governor of Buenos Ayres? In answer to this, you will allow me to observe, that the intrinsic value of Falkland's island could not be deemed a sufficient cause of war, and that it was therefore a proper object of negociation. This, which cannot be denied, being granted, what could be more prudent, than to leave an opening for accommodation, by allowing the king of Spain to avow or disavow, as he thought proper, the act of the governor of Buenos Ayres? Indeed, if Great Britain had thrown herself into the arms of France, as a mediator, there would have been some ground of cavil. But where has the hon. gentleman picked up his intelligence? He says, that more knowledge of the actual state of affairs may be gathered from a common newspaper, than from the King's Speech. We all know the hon. gentleman's partiality for these vehicles of politics. May I, then, presume to assert, that he must have owed this anecdote to these oracles of truth. I think I may, without much vanity, pretend to as much knowledge of the matter, as the hon. gentleman, and yet, I protest, the affair is an entire secret to me. Great Britain has not employed France as a mediator, for she has no need of a mediator. If she had need of a mediator, she would have need of a protector; a case which can never exist, while she is the first and greatest power in Europe; or, if these words be too strong, one of the first and greatest powers in Europe. But we have not secured all the British possessions from danger, and provided against every sudden blow from the enemy! It may be so. For what wisdom can with so few troops render us every where invulnerable? The hon. member who started this objection, could not, I believe, with all his sagacity and military talents, succeed in such an arduous task. Here, therefore, he is as unfortunate, as in his attack upon the imaginary prophecy, concerning the duration of peace which he attributes to me. I made no such prophecy. I only said, that such and such advantages would accrue to Great Britain, if the peace lasted ten years. I ventured, on the strength of calculation, to specify the quantity of the national debt, which would in that time be paid off. Indeed, I thought at that conjuncture that war was at a great distance; but I was far from prophesying. But, had the ministry acted with spirit, in the affair of Corsica, war might have been prevented! The hon. gentleman's intelligence may be very good; yet the point is not very clear to me. And had a rupture actually ensued, in consequence of our interference, who would not have blamed the ministry, for not allowing the enemy to waste their blood and treasure upon an object, which they may find a thorn in their side?

Colonel *Barré*:

Sir; the minister has thought proper to disclaim the prophecy of ten years peace, with which he was charged. I am not surprized at it; for nothing can be more natural than for an unfortunate wight to deny a bastard child, for whom he is likely to be brought to shame. I will not be so ungenerous as to add to the catalogue of the noble lord's transgressions by a false charge. The real sins, for which he has to answer, are so many, that, were I an enemy, I could not wish for the least exaggeration. All my spleen and malice would be fully gratified by displaying the naked truth. For this reason, and for the honour of my own character, he may be assured, that I will never quote his oracular sayings, his gospel, except where I am sure of the text. Will he then believe me, when I tell him, that I took down his words? Here they are, without any marks of forgery, and with all the visible characters of authenticity, with the sacred rust and precious varnish of antiquity. Martinus Scriblerus would be forced to confess them genuine. Have we here no antiquarian to be consulted? Shall I then, send for my ink-merchant, to determine the point by the colour of his own manufacture? Or will the noble lord trust to my honour? I hope he is a man of honour. He ought to remember, that what he utters in this House is not exactly like the Sibylline verses, 'Foliis non carmina mandat.'

Mr. *Burke* stood up, to explain what he had said concerning the mediation of France, in the quarrel of Great Britain and Spain.

Sir *Charles Saunders*, in a very short speech, made a sensible observation, which struck the House exceedingly. He said, the Address was an approbation of the general conduct of the ministers. He thought it would be great impropriety to

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agree to such address, before any enquiry into the conduct of the ministers was made. The enquiry should precede the approbation. Therefore, he thought, the captains of the Tamer and Favourite sloops should be brought to the bar, to give the House an account of the proceedings of the Spaniards at Falkland's island; and what information they gave the ministers relative to that affair.

Mr. *Dowdeswell:*

Sir; If I could be surprised at any thing said by the minister, I should be surprised at his asserting, that the Address has passed uncensured; and that it may, without any alteration, be sent to his Majesty as the sense of this House. What is the Address but an approbation of the Speech, which is applauded paragraph by paragraph? And what is the Speech but a detail, obscure and unsatisfactory indeed, but still a detail of ministerial conduct? Now, has not this conduct been arraigned in all its parts, and proved to be weak, if not wicked? Has not almost every member, that has yet spoke, condemned the plan of foreign as well as domestic politics, that has been lately pursued? Has not the ministerial confidence, in the support of the people, been shewn to be absurd and impossible? Have not the coercive measures, with which the Bostonians seem to be threatened, been convicted of imprudence, if not folly and madness? Has not the arbitrary government, under which Ireland groans, been condemned with equal severity and justice? Have not the improvidence and blindness of the ministers, with regard to the designs of our enemies, been detected and exposed? Have not their supineness, indolence, and timidity, not to say their ignorance and treachery, after the commencement of hostilities, been laid open to our view in all its deformity? What the minister has said, in answer to all these charges, amounts only to a lame excuse, not a vindication. Of the most material charge of all he has said nothing. What is the reason? His conduct in that instance was indefensible. He could advance nothing plausible to palliate the naked and defenceless state in which he kept the nation, after he had received authentic intelligence of the insidious designs of the House of Bourbon. When the general tendency, and indeed the whole substance of the Address and Speech, are thus condemned, how can the minister think that either remains uncensured, or that the Address can be sent up unaltered to his Majesty as the sense of this House? Why should he expect that an amendment of any part should be proposed, when the whole is condemned? Does he remember what the clown said to Mr. Pope, when he was repeating, "God mend me!" his usual succedaneum for an oath. "God mend you! God had better make two new men than mend such a crooked thing as you." With much more reason may I say, that this House had better make two new addresses than mend this single one. The Speech and the Address are so worded as to be the echo of each other; and we cannot approve of either, without approving of the ministry's conduct, which, in my opinion, does not deserve applause. At the first view, at least, it seems to carry guilt on its face. Therefore, before we give it our sanction, we ought to see it justified by those papers which passed between the Spanish ministry and our court. If, in consequence of this enquiry, the ministers be found praise-worthy, no man will be more ready than I to do justice to their merit. I will heartily concur in this Address or panegyric. But, until this satisfaction is granted, I own myself not disposed to prostitute the character and dignity of this House to their selfish purposes. I will with reluctance see it employed as a mechanical tool, to screen their incapacity or perfidy. We have degraded ourselves too much already by our condescension and implicit faith in their good works. It is time to make use of our reason, and to recover our reputation, if it is not lost beyond redemption. Our country stands in need of all the credit and authority that we can possibly acquire. This end we can never gain by a passive obedience to a junto of weak men, who are equally odious and contemptible in the eyes of the nation. You call yourselves representatives of the people. Why, then, do not you express their sentiments, and echo their voice? Would they present to his Majesty a congratulatory Address on the good conduct of his present ministers? Were you what you ought to be, you would, instead of an address, go up in a body with a remonstrance.

Lord *North:*

Sir; if the arguments I have already advanced, in defence of the ministry, have not proved satisfactory to some gentlemen, I believe that it is not the fault of

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the arguments, but of the hearers. None are so hard of persuasion, as those who are resolved not to be persuaded. Having ears to hear, they will not hear; having eyes to see they will not see; having hearts to understand they will not understand. They are deaf to the voice of the charmer, charm he never so wisely. It is not my business to furnish them with candour. I leave them therefore to the hardness of their own hearts. Nothing can convert them but the possession of the loaves and fishes. But those more generous minds, that can still hear reason, and do not carry on an open war with administration, are, I hope, satisfied. If they are not, I am sure the recapitulation of what I have already urged would sooner produce disgust than conviction. Waving, therefore, all repetition, let me account for the tardiness of the ministry in arming the nation; a point, which the multiplicity of objections made me forget, and which I am obliged to the hon. gentleman for calling to my mind. Had Great Britain begun to equip fleets, and raise armies in the beginning of June, would not France and Spain have taken the same course? What, then, could have been gained by this precipitation, which is recommended? nothing: the enemy would have been equally forward, and would have made proportionable preparations. We might then have got the start of the enemy, and I trust we have it still. But it is evident that fleets cannot be fitted out but when the trade is at home, coming home, or going abroad. Sailors, the principal part of a fleet, can be at no other time procured. Was this the case at the period proposed?—no. Where, then, would be the prudence of inciting our enemies to strain every nerve, and put forth all their strength, when our most vigorous efforts would prove but feebleness and impotence? Could this measure, if then embraced, have enabled us to strike a sudden and decisive blow, there would have been but one argument in its favour. But, as the reverse is notoriously true, what foundation is there for impeaching the conduct of the ministry? Here, I am confident, it will be found too hard for the cankered tooth of envy and slander, that viper which has not spared even the crown. Here the industry of the ministerial adversaries will be as ill placed as in nibbling at the Address, which they forget to be a kind of compliment to the throne, and no approbation or disapprobation of its servants. If they have acted amiss, there is another time for the consideration of that affair. But that their conduct is now approved by this Address, or deserves to be disapproved by any other act, are two points, of which the hon. gentleman will hardly persuade this House. He is too cold a member.

Mr. *Dowdeswell:*

Sir; I confess that the noble lord discovers more heat, aye, and more smoke too than I. But may not heat and smoke exist without any light? May not a man be possessed of the fury of oratory without the inspiration? Indeed, when I view the formidable phalanx of two-legged arguments ranged behind the noble lord, I cannot wonder at his vehemence. They may well fill him with a decent assurance. Besides, he is of too long standing in the House, to be much troubled with the *infans pudor*. But though he is the older member, I am the older man. If this were not, to the misfortune of this country, too true, would he have affronted the understanding of this House, by affirming, that the present Address is only a matter of compliment? What! does he not yet know, that these addresses are deemed not only by the nation, but by foreigners, the best criterions for determining the degree of confidence reposed by this House in the King and his ministers? Is he yet to learn, that this is the act, by which all men feel how our pulse beats in regard to foreign as well as domestic transactions? Why, a boy that has read the first elements of politics, would be ashamed of not knowing this obvious truth. How, then, can we, with a safe conscience, give a sanction to this Address, when we cannot, with a safe conscience, approve the conduct of the ministry? Were there no other objection, they would stand condemned for their neglect and dilatoriness in arming the nation. For, what avails it to say, that if we had armed, the enemy would have armed? Our enemies have been arming ever since they projected the capture of Port Egmont. They have been augmenting their navy, strengthening their marine, improving their fortresses, and fortifying their harbours. Not a moment have they been idle. The consequence is, that they have got the start of us in their warlike preparations. Was it not your business, upon receiving authentic intelligence of their hostilities, to have used all diligence in recovering the time

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which you had lost, by not attending to the advice received last Christmas from a noble lord (Chatham) who is the glory and ornament of his country? Instead of being thus laudably employed, you have been amusing yourselves at your country seats, and counting your well-gotten treasure. If this nation be happy enough to be still before-hand with the enemy, it does not appear to owe that happiness to the prudence or diligence of its ministers. Fortune, blind fortune, is the minister, to whom we must kneel for that blessing.

It being now half past ten o'clock, and the question much called for, the Address was read by the Speaker, and agreed to without a division.

The Commons' Address of Thanks.] The Address was as follows:

"Most Gracious Sovereign,

"We your Majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, return your Majesty our humble thanks for your most gracious Speech from the throne.

"We beg leave to offer to your Majesty our congratulations on the happy delivery of her Majesty, and on the birth of another princess; esteeming every increase of your Majesty's royal family an additional security for the continuance of that happiness which we have already experienced under its auspicious government.

"Among the many proofs we have received of your Majesty's constant attention to the welfare and prosperity of your people, your Majesty's earnest desire to continue to us the blessings of peace, could not fail to inspire us with sentiments of gratitude and affection: but we could have reaped little real satisfaction from the enjoyment of those blessings, had we not at the same time been able to place the justest confidence in your Majesty, that you would never be induced, by a mistaken tenderness for the present ease of your people, to sacrifice their more essential and more lasting interests. These we cannot but consider as having been dangerously struck at, by the violence lately committed by a Spanish governor upon one of your Majesty's possessions. Under these circumstances, your Majesty's determination to make an immediate demand from the court of Spain of such satisfaction as you had a right to expect, and at the same time to direct the necessary preparations to be made, without delay, for enabling your Majesty to do yourself justice, in case your requisition to the court of Spain should fail to procure it, demands our most hearty acknowledgments; and we rejoice to find that your Majesty will not discontinue these preparations until you shall have received a proper reparation for the injury, as well as satisfactory proof that other powers are equally sincere with your Majesty in the resolution to preserve the general tranquillity. In the prosecution of this your Majesty's purpose, your Majesty will not be disappointed in your expectation of receiving from your faithful Commons every degree of support which, in the progress of this very important business, shall become requisite: with this view, we will enter without delay into the consideration of the supplies for the ensuing year; and whatever extraordinary expences the public service shall require, we will cheerfully provide for, in such manner as may be least burdensome to your Majesty's subjects.

"In considering the state of your Majesty's colonies in North America, we will neglect no means of securing the commercial interests of this kingdom, or of providing for the protection of your Majesty's good subjects there from every degree of violence and oppression.

"We return your Majesty our unfeigned thanks, for the timely precautions you have used, for guarding against the introduction of that fatal contagion which has of late appeared in some of the distant parts of Europe: and while, with your Majesty, we place our ultimate reliance upon the Divine Providence for our preservation from so great a calamity, we shall consider it as our indispensable duty to make use of every reasonable precaution which human foresight can suggest to us.

"We assure your Majesty, that we will apply ourselves with all due diligence to the dispatch of the public business; in which we will not fail steadily to pursue those great ends recommended to us by your Majesty in your Speech from the throne, as well as by your royal example. And if any hopes should have been conceived, or it may have been any where surmised, that among your Majesty's people there were any such differences subsisting, as could in the least degree abate the ardour of their affectionate attachment for your Majesty, or prevent their joining, as one man, in seconding

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your Majesty's views, for maintaining unsullied the lustre of your crown, and preserving undiminished the rights of your people, we doubt not, by our proceedings, to convince the world how false and injurious are all such surmises; and to make it manifest, that, whenever we are called upon in the cause of our king and country, there will be but one heart and one voice among our faithful Commons."

The King's Answer.] His Majesty returned this Answer:

"Gentlemen,

"I thank you for this very dutiful and affectionate Address; and for the fresh mark you give of your attachment to me and my family, in your congratulations on the happy delivery of the Queen, and the birth of another princess.

"Your ready concurrence in my sentiments, and your cheerful assurances of support, afford me the highest satisfaction. You may be assured of the continuance of my endeavours to preserve to my kingdoms the blessing of peace; but I shall consider it as a blessing so long only, as it can be enjoyed consistently with the honour of my crown, and without prejudice to the rights of my people."

*Debate in the Lords on the Duke of Richmond's Motion respecting the Seizure of Falkland's Islands.**] November 22. The duke of Richmond moved, 1. "That an humble Address be presented to his Majesty, that he will be graciously pleased to give directions, that there be laid before this House, copies or extracts of all Letters and other Papers containing any intelligence received by any of his Majesty's principal secretaries of state, the commissioners for executing the office of lord high admiral of Great Britain, or any other of his Majesty's ministers, between the 12th of September, 1769, and the 12th of September, 1770, touching any hostilities commenced, or designed to be commenced by the crown of Spain, or any of its officers, against any part of his Majesty's dominions, expressing the time and times at which such intelligence was received:

2. "That he will be graciously pleased to give orders, that this House be acquainted with any Claims that may have been set up by the crown of Spain, to his Majesty's islands called Falkland's islands, expressing the time and times at which the crown of Spain did set up such claims:

3. "That he will be graciously pleased to give directions that there be laid before this House, copies or extracts of all Letters and other Papers containing any intelligence received by any of his Majesty's principal secretaries of state, the commissioners for executing the office of lord high admiral of Great Britain, or any other of his Majesty's ministers, between the 12th of September, 1769, and the 12th of September, 1770, touching the state of the Spanish land and sea forces in the West Indies, as they stood on or since the 1st of June, 1769; and also, touching the departure of any ships of war or land forces from the ports of Spain, to any part of the Spanish West Indies, since the said 1st of June, 1769, expressing the time and times at which such intelligence was received."

The question being put upon the first motion,

Lord *Weymouth* said:

My lords; if I had no objection to the motion now before your lordships but the period at which it is made, that would of itself be sufficient to excite my disapprobation. The noble duke who made it, is not perhaps entirely aware of the consequences which it must produce, of the inconveniences it must necessarily occasion, of the evils to which it must immediately give birth. We are now, my lords, engaged in a negociation of great importance with the Spanish nation; the honour, as well as the happiness of two great kingdoms, are at stake in this negociation, and their secrets are of a nature too tender to undergo the general inspection of every power in Europe: was there a possibility of indulging the wishes of this House, without making the whole universe acquainted with transactions that should be carefully confined to the cabinet, I could have but little to say against the present proposition; but when, in laying the papers required before your lordships, they are, in fact, exposed to all the world: when they are consequently to be mentioned in our prints, and circulated through the remotest quarters of the globe, I think it more for the happiness of the British empire, to decline even the satisfaction now demanded for your lordships, than to open the sources of our intelligence, the springs of our action, and the principles of

* From the London Magazine.

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our conduct to suspicious friends, professed rivals, or determined enemies; besides was it even prudent on our own account, to unlock the English cabinet in this manner to all Europe, we have, as yet, no right to betray the secrets of the Spanish court; they are now treating with us confidentially; they are now induced to negociate by a reliance upon our discretion, whereas a rude publication of what they communicate to us under the sacred seal of secrecy, must, at once, put an end to all amicable intercourse; must at once open a scene of carnage, and spread all the horrors of war through two extensive empires, who may still be fortunately reconciled, by a fatal effusion of blood.

When I say this, my lords, it is very far from my wish to insinuate any fear of commencing hostilities, any dread of engaging in a war with Spain, should the necessity of such a measure become unavoidable; but when I recollect, that in the most successful, the most glorious wars this country ever carried on, the nation was still a sufferer; when I recollect that conquests are seldom, if ever made without an expence exceeding, greatly exceeding their intrinsic value; when I, moreover, recollect the blood of numberless fellow subjects, which must be poured in rivers at the altar of victory; I own a war brings horror to my imagination; and I wish to procrastinate the period of calamity, as long as honour will justify the delay.

Having mentioned the word honour, my lords, suffer me to observe, that by national honour, I do not mean the raving of the rash, or enthusiasm of the prejudiced; by national honour, I mean a prudent preservation of our territories; a spirited exertion of our independence, and a rigid fidelity to our engagements; this is my criterion of national honour; and I can boldly affirm that by this criterion, the present negociation with Spain will not only be regulated, but concluded; do not however complain that negociation is fruitless, till there is sufficient time allowed for negociating; the claims of kingdoms are nice, intricate, and important; they must be clearly understood, to be positively granted; realms and oceans are not so readily traversed as the vehemence of misjudging zeal may wish: nor can we fasten the wings of the winds, by the strongest act of parliament: I am on these accounts, my lords, for the previous question; I see many evils attending the motion before us, but cannot even guess at the most distant possibility of a salutary consequence: those whom the royal confidence has particularly appointed to transact this weighty affair, are in possession of all the necessary knowledge, and as their conduct has hitherto been honoured by a powerful parliamentary support, there cannot exist a reason for supposing that upon the present occasion they will act unworthy of their master's good opinion, or injuriously to the true prosperity of the people.

The Duke of *Richmond*:

My lords; notwithstanding the arguments urged by the noble lord against the motion with which I presumed to trouble your lordships, yet I flatter myself that when this House has heard the grounds upon which it is made, the independent part, at least, will honour it with their support. Facts are stubborn things, and can boldly face all the oratory of administration. On the 3rd of last June, the Tamer sloop arrived at Plymouth, and brought an account that a Spanish squadron had appeared off Falkland island, and ordered our people to depart; this was a clear commencement of hostilities, my lords; from the 3rd of June, to the 12th of September, (above three months) when our garrison arrived on board the Favourite, it does not appear that the ministry took any step for obtaining redress, or to put the nation in a state of defence; the first orders for equipping a fleet were given on or after the 12th of September; and this armament, such as it is, has not yet produced any visible effect; since the 12th of September, near three months are elapsed, and still we are told, "that the affair is in negociation, that the negociation is still pending;" in that time three messengers have arrived from Madrid, and particularly one last Monday; and although three days have since passed, no communication has yet been made from the court of Spain. The terms of the motion, my lords, plainly obviate the objection made by the noble lord, since I did not call for any papers of a date subsequent to the notice received by the ministry of the hostility being actually committed; consequently my motion cannot reach to any letters written, or received, or to any negociation entered into, after the receipt of that notice; I mean only to obtain for the House some accurate information of circumstances leading to, and accounting for a fact which is itself notorious, and undisputed. I wanted to avert our disgrace and infamy

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in suffering the honour of the crown, and the rights of the people of England to be so long the subject of negociation;—I wanted to prove the folly, or treachery of the King's servants, in not accepting of the augmentation of seamen proposed and urged by the lords in opposition, early in the last session, when a proposal for strengthening the hands of government had been rejected, merely because it came from that quarter;—I wanted to prove their supineness, or treachery, in not arming early in June, when they heard of our people being warned to quit the island, by a military force threatening compulsion;—and lastly, I wanted to prove the feebleness and slow progress of the armament they have made, and the disgraceful situation of the King, who stood with a public affront, and dishonour fixed upon his crown, and without any attempt made, in the course of six months, to wipe it away. The hostile intentions of Spain, my lords, were not only declared by the open hostility itself, but confirmed by two extraordinary facts; after the Spaniards had taken possession of Port Egmont, they did not suffer the garrison to depart immediately, but took away the rudder of his Majesty's ship, and detained her by force for the space of 20 days;—supposing they had a claim to the island, they had none to the King's ship; and detaining her was an express violation of treaty, by which, even in the case of an open rupture, six months are allowed to the subjects of each nation to remove their persons and property from the dominions of the other. The other fact, my lords, is still more important. I have intelligence not to be doubted, that at this moment, there are in the several Spanish prisons not less than 3,000 British seamen, (particularly at Ceuta on the coast of Africa), who have been taken out of our merchant ships by Spanish guarda costas, and condemned to perpetual slavery, or confinement. To confirm this assertion, my lords, give me leave to inform you that five of our seamen have been demanded by one of our admirals, and been refused by a Spanish admiral, and governor, who indeed expressed a willingness to oblige him, but alledged that it would be a breach of their orders, and instructions.

These were the principal materials of his grace's speech. The several parts were filled up with judicious, and pointed observations, expressed in clear, nervous language, and delivered with plainness and dignity.

The Earl of *Hillsborough:*

My lords; though the noble duke has been pleased to give this House what he thinks a narrative of very great importance; a narrative at which he imagines your indignation must be instantly roused against the insolence of the haughty Spaniard, I do not, by any means, conceive that his arguments, even admitting the authenticity of his facts, can be decisive on the present question. A negociation is now opened relative to the hostilities complained of between Great Britain and Spain; the court of Madrid disavows the behaviour of its officer; it promises every equitable satisfaction to this nation; and as the noble lord who first opposed the motion, has not judged it necessary to throw out any lights for the information of the House, I will take upon me to declare, that I am acquainted with the contents of the papers required; and I will farther venture to assert, that the object of dispute is in as fair a way of being amicably adjusted, as we can wish: nay, in so very fair a way, that nothing but the intemperance of party can possibly prevent its terminating to the honour, to the advantage of this kingdom.

My lords, the noble duke expresses a most vehement solicitude for the reputation of his country, and perhaps his grace may be as sincere as he is passionate in his declarations; but give me leave to say, that excessive warmth, though it may be a sign of truth, is no great evidence of discretion. His grace is so zealous for our national character, that he is for rushing into all the horrors of a precipitate war upon the slightest occasions. He seems in general an enemy to explanations; if the shadow of an offence is offered to the British empire, he will not enquire, whether that shadow is offered intentionally by the Spanish crown, or accidentally by the folly of a Spanish officer. A whole people must be made instantly answerable for the misconduct, possibly, for the misconception of an individual. Hostilities must at all events be commenced, and the whole European world be plunged into a war of years, to effect what may probably be effected by a negociation of a few weeks.

My lords, the noble duke will perhaps say that, according to this mode of reasoning, Spain, while she continues negociating, may also continue her depredations upon the dominions of Great Britain, and may perhaps politically protract

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the negociation for the very purpose of making fresh encroachments; the noble duke may amuse himself with the supposition of this or any other absurdity; but I am satisfied the supposition will have no weight with this House; if the Falkland rock has furnished both kingdoms with so serious a matter of consideration; if Spain sees that we are not to be deprived of so insignificant an object, without satisfaction, and if she sees us already encreasing our armaments for the end of exacting any justice by force, which is denied to us by treaty; she must know that giving us a new cause of complaint, will be deemed a commencement of hostilities. She will therefore have a regard for herself, however she may wish to distress us; and will be cautious from prudence, if she is not even honest from inclination.

My lords, the noble duke expresses himself highly concerned for the honour of his country, and thinks that this honour has been infamously betrayed by administration; the folly or treachery of the ministers, says his grace, is surprizing, in not accepting of the augmentation of seamen proposed and urged by the lords in opposition, early in the last session; the supineness or treachery of the ministers is also surprizing, in not arming early in June, when they heard of our people being ordered to evacuate the Falkland islands; and above all, the feebleness of our armament, as well as the disgraceful situation of the crown, in tamely submitting to such an indignity, is surprizing; in fact, my lords, if his grace's word is to be relied on, the ministry have been all this time sacrificing the glory of their sovereign, and the happiness of their country; the two Houses of Parliament have been their confederates in the turpitude, and the King, together with a prodigious majority of the landed as well as the monied interest, have been industrious to sacrifice their own welfare, and open a long scene of misery for their unhappy posterity.

To set the noble duke however right in this point, who affirms so peremptorily, that the honour of the nation has been infamously neglected; I must beg your lordships' permission to inform him, that the moment certain intelligence arrived, of our having cause to find fault, a spirited resolution was taken to demand satisfaction. The honour of the nation, as well as the prosperity, made it necessary to demand this satisfaction peaceably; altercations often rise between kingdoms, through the negligence, the ignorance, or the insolence of officers, where there is even no intention whatever of a quarrel between their governments. Our own officers have not, at all times, behaved so circumspectly, but our neighbours have had occasion to be offended; to maintain the honour of the nation, therefore, it was requisite to act with common understanding; it was necessary before we resented, to know how far we had a warrantable right to resent; it was necessary to know whether Don Francisco Buccarelli, or the Spanish court was to blame; when this point was determined, the system to be adopted was obvious; if the Spaniard was not to be argued into justice, he was to be compelled; with this view, administration, though willing to avoid the calamities of war if possible, prepared at all events for the worst; the preparations for war went hand in hand with the plan of negociating, and I again aver, that there is the most reasonable ground to expect a speedy accommodation, if the turbulence of patriotism does not prevent so desirable a circumstance, by rendering it impossible for the cabinet at Madrid to comply with our demands, and to gratify their own inclination.

My lords, the people of Spain have exalted sentiments of honour as well as the English; we know their general characteristic as well as our own, to be sensibility in the extreme, and bravery to extravagance; they are willing to be just, but like ourselves they will not be bullied into justice; they will not have that demanded as the concession of their fears, which should be required as the result of their probity; they will suffer distress infinitely sooner than dishonour; and if we talk only of forcing them into our measures, they will make that force indispensably requisite. Nations, my lords, in this respect, resemble individuals, affront their pride, and you oblige them to refuse the very satisfaction which you wish for; tell them, that you will chastise them into rectitude, and you make it absolutely impossible for them to do what is right: a breach in that case becomes mortal: the sword must be instantly drawn, and one or both of the parties be doomed to more than probable destruction.

The noble duke will here very likely observe, notwithstanding the very melancholy colours in which it is the fashion for popular declaimers to paint the present situation of this country, that, in a contest

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with Spain, Great-Britain has but little to apprehend; that her naval power is able to give the whole universe laws, and that as we have nothing to dread from a rupture, we should of consequence proceed to an immediate declaration of war. A language of this nature, my lords, may be very fine in romance, but men of business experimentally know, and laugh at the absurdity. But to give his grace the utmost scope of argument, let us suppose victory actually chained to the British arms, let us even imagine, that in every engagement with the enemy, the glory of the battle should be ours. Still will the noble duke venture to assert, that a war is not one of those misfortunes, which Great Britain, above all other kingdoms, should avoid with the nicest circumspection? We, my lords, are a commercial people; our chief dependence is our traffic—our chief wealth the industry and population of our inhabitants. War is a trade among some kingdoms—in France it is the bread of thousands—Switzerland sends courage as an article of natural growth to the military market—Prussia has almost as many soldiers as citizens. But the prosperity of the British empire is founded upon peace; while the sword is sheathed, the plough is employed, the loom kept in motion; while the sword is sheathed, the arts are encouraged, the sciences extended—population spreads its blessings through our territories—abundance smiles in every quarter, and all is joy. Let the goddess of discord however summon us to the field, and this beautiful prospect is instantly overcast—the political horizon is no sooner pregnant with a storm, than the husbandman is torn from his field, and the artisan dragged from his manufacture. Every little family among the lower orders, trembles for the safety of a son, a father, or a husband. In the midnight hour, the ruthless hand of stern necessity bursts into their humble habitations, and plunders them of their principal support, their principal felicity. The captive, snatched from a distracted wife, a despairing mother, or a helpless brood of unoffending prattlers, is hurried on board—The anguish of his mind is unutterable—in the bitterness of his soul, he wishes annihilation to that country for which he is destined to fight; and wonders at the barbarity of those laws, which punish him on account of his poverty. Goaded by distress upon one hand, confined on the other in an atmosphere unavoidably baleful from the multiplicity of residents, and treated harshly perhaps in consequence of his awkwardness in a profession wholly new to him, he sickens, he dies; and leaves room for some new wretch to perish in the same manner, to gratify the pride of popularity.

But suppose, my lords, that none of our subjects ever perish in this miserable manner, survive till the hour of battle, and courageously kill ten to one of the enemy; is not victory misfortune, where war can by any honourable means be avoided? Must not our blood inevitably flow? must not our commerce be inevitably checked, and must not the kingdom groan under a weight of new taxation? What, my lords, are the popular complaints of the present times? The decay of trade, and enormity of taxes. What is the demand of popularity in the midst of these complaints? Go to war with Spain—that is, "Let our trade sustain additional injuries—let fresh impositions be added to the already intolerable burdens of the people." But, indeed, the language of patriotism is so very inconsistent, that there is scarce a possibility of contending with its absurdity. At one time, "We are a ruined, an annihilated kingdom; we have not a ship manned, or a regiment ready for service; the nation besides is disaffected to the government, and will not exert its strength under so despicable an administration." Yet in the midst of all this ruin, in the fullness of all this annihilation—without a fleet—without a land force, without a friend—"Go to war" is all their cry. Go to war, and become an instant prey to your enemies.

Either way, my lords, the arguments of the noble duke are self-convicted. If we are not in a condition of going to war, why does his grace advise us to an immediate declaration? If we are in a condition of going to war, why does he confidently assert, that government has ignorantly, or treacherously neglected the proper defence of the kingdom? If our state is so very deplorable as he is pleased to represent it, the very measure he advises is the worst that can possibly be taken. It is big with fate, and, if adopted, must overwhelm us with destruction. If the state of the nation is not what he represents it, your lordships will see, what a degree of respect he is entitled to, on the score of his judgment, or his veracity. The alternative is entirely at his grace's service, and he may if he pleases, avoid the imputation of an intentional duplicity, by candidly plead-

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ing a want of information or understanding.

Upon the whole, my lords, the noble duke may labour to obtain the applauses of a mob; but the ministry will labour to deserve the blessings of the kingdom. It may be his grace's idea of patriotism to encrease the burdens, and to render the liberty of that very mob insecure, whose huzzas he solicits, but it is the unalterable view of government, to cultivate the blessings of peace, while they can be cultivated with honour. It is their unalterable view to avoid, as much as possible, an encrease of public taxes, and an inroad, not only upon the interests of trade, but upon the personal safety of the people. Had the ministry no ends, beyond the sordid ends of private ambition, to gratify, their best means of gratifying these ends would be to comply with the popular voice, and to plunge directly into blood. A war abroad necessarily secures tranquillity at home, and carried on with success, makes an administration idolized. But the ministry, though they flatter themselves with as much spirit to direct a war, as the most celebrated of their predecessors; though they know that spirit in a war, between England and any other power, is the only necessary wisdom, as the mode of attacking is obvious: I say, my lords, the ministry will nevertheless sacrifice their own advantage to the general good of the kingdom; and neither call for the blood nor the treasures of their fellow-subjects till both become absolutely necessary for the preservation of their country.

The Earl of *Chatham*:*

My lords; I rise to give my hearty assent to the motion made by the noble duke. By his grace's favour, I have been permitted to see it, before it was offered to the House. I have fully considered the necessity of obtaining from the King's servants a communication of the papers described in the motion, and I am persuaded that the alarming state of facts, as well as the strength of reasoning, with which the noble duke has urged and inforced that necessity, must have been powerfully felt by your lordships. What I mean to say, upon this occasion, may seem perhaps to extend beyond the limits of the motion before us. But I flatter myself, my lords, that if I am honoured with your attention, it will appear that the meaning and object of this question are naturally connected with considerations of the most extensive national importance. For entering into such considerations, no season is improper; no occasion should be neglected. Something must be done, my lords, and immediately, to save an injured, insulted, undone country. If not to save the state, my lords, at least to mark out, and drag to public justice those servants of the crown, by whose ignorance, neglect, or treachery, this once great flourishing people are reduced to a condition as deplorable at home, as it is despicable abroad. Examples are wanted, my lords, and should be given to the world, for the instruction of future times, even though they be useless to ourselves. I do not mean, my lords, nor is it intended by the motion, to impede or embarrass a negociation, which we have been told is now in a prosperous train, and promises a happy conclusion.

Lord *Weymouth*:

I beg pardon for interrupting the noble lord, but I think it necessary to remark to your lordships, that I have not said a single word tending to convey to your lordships any information, or opinion, with regard to the state, or progress of the negociation—I did, with the utmost caution, avoid giving to your lordships the least intimation upon that matter.

The Earl of *Chatham*:

I perfectly agree with the noble lord. I did not mean to refer to any thing said by his lordship. He expressed himself, as he always does, with moderation and reserve, and with the greatest propriety;—it was another noble lord, very high in office, who told us he understood that the negociation was in a favourable train.

The Earl of *Hillsborough*:

I did not make use of the word *train*. I know the meaning of the word too well. In the language from which it was derived, it signifies protraction, and delay, which I could never mean to apply to the present negotiation.

The Earl of *Chatham*:

My lords; this is the second time that I have been interrupted. I submit it

* This Speech of the Earl of Chatham was taken by the gentleman alluded to at pp. 647 and 741, and has been revised by him for this Work. [A. D. 1813.]

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to your lordships whether this be fair and candid treatment. I am sure it is contrary to the orders of the House, and a gross violation of decency and politeness. I listen to every noble lord in this House with attention and respect. The noble lord's design in interrupting me, is as mean and unworthy, as the manner in which he has done it is irregular and disorderly. He flatters himself that, by breaking the thread of my discourse, he shall confuse me in my argument. But, my lords, I will not submit to this treatment. I will not be interrupted. When I have concluded, let him answer me if he can. As to the word, which he has denied, I still affirm that it was the word he made use of; but, if he had used any other, I am sure every noble lord will agree with me that his meaning was exactly what I had expressed it. Whether he said course or train is indifferent. He told your lordships that the negotiation was in a way that promised a happy and honourable conclusion. His distinctions are mean, frivolous, and puerile. My lords, I do not understand the exalted tone assumed by that noble lord. In the distress and weakness of this country, my lords, and conscious as the ministry ought to be how much they have contributed to that distress and weakness, I think a tone of modesty, of submission, of humility, would become them better; '*quædam causæ modestiam desiderant.*' Before this country they stand as the greatest criminals. Such I shall prove them to be; for I do not doubt of proving to your lordships' satisfaction, that since they have been entrusted with the conduct of the King's affairs, they have done every thing that they ought not to have done, and hardly any thing that they ought to have done.

The noble lord talks of Spanish punctilios in the lofty style and idiom of a Spaniard. We are to be wonderfully tender of the Spanish point of honour, as if they had been the complainants, as if they had received the injury. I think he would have done better to have told us, what care had been taken of the English honour. My lords, I am well acquainted with the character of that nation, at least as far as it is represented by their court and ministry, and should think this country dishonoured by a comparison of the English good faith with the punctilios of a Spaniard. My lords, the English are a candid, an ingenuous people; the Spaniards are as mean and crafty, as they are proud and insolent. The integrity of the English merchant, the generous spirit of our naval and military officers, would be degraded by a comparison with their merchants or officers. With their ministers I have often been obliged to negociate, and never met with an instance of candour or dignity in their proceedings; nothing but low cunning, trick, and artifice. After a long experience of their want of candour and good faith, I found myself compelled to talk to them in a peremptory, decisive language. On this principle I submitted my advice to a trembling council for an immediate declaration of a war with Spain. Your lordships well know what were the consequences of not following that advice. Since, however, for reasons unknown to me, it has been thought advisable to negociate with the court of Spain, I should have conceived that the great and single object of such a negociation would have been, to have obtained complete satisfaction for the injury done to the crown and people of England. But, if I understand the noble lord, the only object of the present negociation is to find a salvo for the punctilious honour of the Spaniards. The absurdity of such an idea is of itself insupportable. But, my lords, I object to our negociating at all in our present circumstances. We are not in that situation, in which a great and powerful nation is permitted to negociate. A foreign power has forcibly robbed his Majesty of a part of his dominions. Is the island restored? Are you replaced in *statu quo*? If that had been done, it might then perhaps have been justifiable to treat with the aggressor upon the satisfaction he ought to make for the insult offered to the crown of England. But will you descend so low? will you so shamefully betray the King's honour, as to make it matter of negociation whether his Majesty's possessions shall be restored to him or not? I doubt not, my lords, that there are some important mysteries in the conduct of this affair, which, whenever they are explained, will account for the profound silence now observed by the King's servants. The time will come, my lords, when they shall be dragged from their concealments. There are some questions, which, sooner or later, must be answered. The ministry, I find, without declaring themselves explicitly, have taken pains to possess the public with an opinion, that the Spanish court have constantly disavowed the proceedings of their governor; and some per-

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sons, I see, have been shameless and daring enough to advise his Majesty to support and countenance this opinion in his speech from the throne. Certainly, my lords, there never was a more odious, a more infamous falsehood imposed on a great nation—It degrades the King's honour—It is an insult to parliament. His Majesty has been advised to confirm and give currency to an *absolute falsehood*. I beg your lordships' attention, and I hope I shall be understood, when I repeat, that the court of Spain's having disavowed the act of their governor is an *absolute, a palpable falsehood*. Let me ask, my lords, when the first communication was made by the court of Madrid, of their being apprised of their taking of Falkland's islands, was it accompanied with an offer of instant restitution, of immediate satisfaction, and the punishment of the Spanish governor? If it was not, they have adopted the act as their own, and the very mention of a disavowal is an impudent insult offered to the King's dignity. The king of Spain disowns the thief, while he leaves him unpunished, and profits by the theft; in vulgar English, he is the receiver of stolen goods, and ought to be treated accordingly.

If your lordships will look back to a period of the English history, in which the circumstances are reversed, in which the Spaniards were the complainants, you will see how differently they succeeded; you will see one of the ablest men, one of the bravest officers this or any other country ever produced (it is hardly necessary to mention the name of sir Walter Raleigh) sacrificed by the meanest prince that ever sat upon the throne, to the vindictive jealousy of that haughty court. James the 1st was base enough, at the instance of Gondomar, to suffer a sentence against sir Walter Raleigh, for another supposed offence, to be carried into execution almost twelve years after it had been passed. This was the pretence. His real crime was that he had mortally offended the Spaniards, while he acted by the King's express orders and under his commission.

My lords, the pretended disavowal by the court of Spain is as ridiculous as it is false. If your lordships want any other proof, call for your own officers, who were stationed at Falkland island. Ask the officer who commanded the garrison whether, when he was summoned to surrender, the demand was made in name of the governor of Buenos Ayres, or of his Catholic majesty? Was the island said to belong to Don Francisco Buccarelli, or to the king of Spain? If I am not mistaken, we have been in possession of these islands since the year 1764, or 1765. Will the ministry assert, that in all that time, the Spanish court have never once claimed them? that their right to them has never been urged, or mentioned to our ministry? If it has, the act of the governor of Buenos Ayres is plainly the consequence of our refusal to acknowledge and submit to the Spanish claims. For five years they negociate; when that fails, they take the island by force. If that measure had arisen out of the general instructions, constantly given to the governor of Buenos Ayres, why should the execution of it have been deferred so long?

My lords, if the falshood of this pretended disavowal had been confined to the court of Spain, I should have admitted it without concern. I should have been content that they themselves had left a door open for excuse and accommodation. The King of England's honour is not touched till he adopts the falsehood, delivers it to his parliament, and makes it his own.

I cannot quit this subject without comparing the conduct of the present ministry with that of a gentleman (Mr. George Grenville,) who is now no more. The occasions were similar. The French had taken a little island from us called Turk's island. The minister then at the head of the Treasury, took the business upon himself; but he did not negociate: he sent for the French ambassador, and made a peremptory demand. A courier was dispatched to Paris, and returned in a few days, with orders for instant restitution, not only of the island, but of every thing that the English subjects had lost.

Such, then, my lords, are the circumstances of our difference with Spain; and in this situation, we are told that a negociation has been entered into, that this negociation, which must have commenced near three months ago, is still depending, and that any insight into the actual state of it will impede the conclusion. My lords, I am not, for my own part, very anxious to draw from the ministry the information, which they take so much care to conceal from us. I very well know where this honourable negociation will end; where it must end. We may, perhaps, be able to patch up an accommodation for the present,

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but we shall have a Spanish war in six months. Some of your lordships may, perhaps, remember the Convention. For several successive years our merchants had been plundered—no protection given them—no redress obtained for them; during all that time we were contented to complain, and to negociate; the court of Madrid were then as ready to disown their officers, and as unwilling to punish them, as they are at present. Whatever violence happened was always laid to the charge of one or other of their West India governors. To day it was the governor of Cuba, to-morrow of Porto Rico, Carthagena, or Porto Bello. If in a particular instance, redress was promised, how was that promise kept? the merchant who had been robbed of his property, was sent to the West Indies, to get it, if he could, out of an empty chest. At last the Convention was made; but though approved by a majority of both Houses, was received by the nation with universal discontent. I myself heard that wise man (sir Robert Walpole) say in the House of Commons, "It is true we have got a Convention and a vote of parliament; but what signifies it, we shall have a Spanish war upon the back of our Convention."—Here, my lords, I cannot help mentioning a very striking observation made to me by a noble lord, (the late lord Granville) since dead. His abilities did honour to this House, and to this nation. In the upper departments of government he had not his equal; and I feel a pride in declaring, that to his patronage, to his friendship, and instruction, I owe whatever I am. This great man has often observed to me that, in all the negociations which preceded the Convention, our ministers never found out that there was no ground, or subject for any negociation. That the Spaniards had not a right to search our ships, and when they attempted to regulate that right by treaty, they were regulating a thing which did not exist. This I take to be something like the case of the ministry. The Spaniards have seized an island they have no right to, and his Majesty's servants make it matter of negociation, whether his dominions shall be restored to him or not.

From what I have said, my lords, I do not doubt but it will be understood by many lords, and given out to the public, that I am for hurrying the nation, at all events, into a war with Spain. My lords, I disclaim such councils, and I beg that this declaration may be remembered—Let us have peace, my lords, but let it be honourable, let it be secure. A patched up peace will not do. It will not satisfy the nation, though it may be approved of by parliament. I distinguish widely between a solid peace, and the disgraceful expedients, by which a war may be deferred, but cannot be avoided. I am as tender of the effusion of human blood, as the noble lord who dwelt so long upon the miseries of war. If the bloody politics of some noble lords had been followed, England, and every quarter of his Majesty's dominions, would have been glutted with blood—the blood of our own countrymen.

My lords, I have better reasons, perhaps, than many of your lordships for desiring peace upon the terms I have described. I know the strength and preparation of the House of Bourbon; I know the defenceless, unprepared condition of this country. I know not by what mismanagement we are reduced to this situation; and when I consider, who are the men by whom a war, in the outset at least, must be conducted, can I but wish for peace? Let them not screen themselves behind the want of intelligence—they had intelligence; I know they had. If they had not, they are criminal; and their excuse is their crime. But I will tell these young ministers the true source of intelligence. It is sagacity. Sagacity to compare causes and effects; to judge of the present state of things, and discern the future by a careful review of the past. Oliver Cromwell, who astonished mankind by his intelligence, did not derive it from spies in the cabinet of every prince in Europe: he drew it from the cabinet of his own sagacious mind. He observed facts, and traced them forward to their consequences. From what was, he concluded what must be, and he never was deceived. In the present situation of affairs, I think it would be treachery to the nation to conceal from them their real circumstances; and, with respect to a foreign enemy, I know that all concealments are vain and useless. They are as well acquainted with the actual force and weakness of this country, as any of the King's servants. This is no time for silence, or reserve. I charge the ministers with the highest crimes that men in their stations can be guilty of. I charge them with having destroyed all content and unanimity at home, by a series of oppressive, unconstitutional measures; and with having betrayed and delivered up the nation defenceless to a foreign enemy.

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Their utmost vigour has reached no farther than to a fruitless, protracted negociation. When they should have acted, they have contented themselves with talking "about it, goddess, and about it"—If we do not stand forth, and do our duty in the present crisis, the nation is irretrievably undone. I despise the little policy of concealments. You ought to know the whole of your situation. If the information be new to the ministry, let them take care to profit by it. I mean to rouse, to alarm the whole nation—to rouse the ministry, if possible, who seem to awake to nothing but the preservation of their places—to awaken the King.

Early in the last spring, a motion was made in parliament, for enquiring into the state of the navy, and an augmentation of 6,000 seamen was offered to the ministry. They refused to give us any insight into the condition of the navy, and rejected the augmentation. Early in June they received advice of a commencement of hostilities by a Spanish armament, which had warned the King's garrison to quit an island belonging to his Majesty. From that to the 12th of September, as if nothing had happened, they lay dormant. Not a man was raised, not a single ship was put into commission. From the 12th of September, when they heard of the first blow being actually struck, we are to date the beginning of their preparations for defence. Let us now enquire, my lords, what expedition they have used, what vigour they have exerted. We have heard wonders of the diligence employed in impressing, of the large bounties offered, and the number of ships put into commission. These have been, for some time past, the constant topics of ministerial boast and triumph. Without regarding the description, let us look to the substance. I tell your lordships that, with all this vigour and expedition, they have not, in a period of considerably more than two months, raised 10,000 seamen. I mention that number, meaning to speak largely, though in my own breast, I am convinced that the number does not exceed 8,000. But it is said they have ordered forty ships of the line into commission. My lords, upon this subject I can speak with knowledge—I have been conversant in these matters, and draw my information from the greatest and most respectable naval authority that ever existed in this country—I mean the late lord Anson. The merits of that great man are not so universally known, nor his memory so warmly respected as he deserved. To his wisdom, to his experience, and care, (and I speak it with pleasure) the nation owes the glorious naval successes of the last war. The state of facts, laid before parliament in the year 1756, so entirely convinced me of the injustice done to his character, that in spite of the popular clamours raised against him, in direct opposition to the complaints of the merchants, and of the whole city, (whose favour I am supposed to court on all occasions) I replaced him at the head of the Admiralty; and I thank God that I had resolution enough to do so. Instructed by this great seaman, I do affirm that forty ships of the line, with their necessary attendant frigates, to be properly manned, require 40,000 seamen. If your lordships are surprised at this assertion, you will be more so, when I assure you that, in the last war, this country maintained 85,000 seamen, and employed them all. Now, my lords, the peace establishment of your navy, supposing it complete, and effective, (which by the by ought to be known) is 16,000 men. Add to these the number newly raised, and you have about 25,000 men to man your fleet. I shall come presently to the application of this force, such as it is, and compare it with the services, which I know are indispensable. But first, my lords, let us have done with the boasted vigour of the ministry. Let us hear no more of their activity. If your lordships will recal to your minds the state of this country when Mahon was taken, and compare what was done by government at that time, with the efforts now made in very similiar circumstances, you will be able to determine what praise is due to the vigorous operations of the present ministry. Upon the first intelligence of the invasion of Minorca, a great fleet was equipped and sent out: and near double the number of seamen collected in half the time taken to fit out the present force, which, pitiful as it is, is not yet, if the occasion were ever so pressing, in a condition to go to sea. Consult the returns, which were laid before parliament in the year 1756. I was one of those, who urged a parliamentary enquiry into the conduct of the ministry. That ministry, my lords, in the midst of universal censure and reproach, had honour and virtue enough to promote the enquiry themselves. They scorned to evade it by the mean expedient of putting a previous

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question. Upon the strictest enquiry it appeared, that the diligence they had used in sending a squadron to the Mediterranean, and in their other naval preparations, was beyond all example.

My lords, the subject on which I am speaking seems to call upon me, and I willingly take this occasion to declare my opinion upon a question, on which much wicked pains have been employed to disturb the minds of the people, and to distress government. My opinion may not be very popular; neither am I running the race of popularity. I am myself clearly convinced, and I believe every man who knows any thing of the English navy will acknowledge, that without impressing, it is impossible to equip a respectable fleet within the time, in which such armaments are usually wanted. If this fact be admitted, and if the necessity of arming upon a sudden emergency should appear incontrovertible, what shall we think of those men, who in the moment of danger would stop the great defence of their country. On whatever principle they may act, the act itself is more than faction; it is labouring to cut off the right hand of the community. I wholly condemn their conduct, and am ready to support any motion that may be made, for bringing those aldermen, who have endeavoured to stop the execution of the Admiralty warrants, to the bar of this House. My lords, I do not rest my opinion merely on necessity. I am satisfied that the power of impressing is founded upon uninterrupted usage. It is the *consuetudo Regni*, and part of the common law prerogative of the crown. When I condemn the proceedings of some persons upon this occasion, let me do justice to a man whose character and conduct have been most infamously traduced; I mean the late lord mayor, Mr. Trecothick. In the midst of reproach and clamour, he had firmness enough to persevere in doing his duty. I do not know in office a more upright magistrate; nor, in private life, a worthier man.

Permit me now, my lords, to state to your lordships the extent and variety of the services, which must be provided for, and to compare them with our apparent resources. A due attention to, and provision for these services, is prudence in time of peace; in war it is necessity. Preventive policy, my lords, which obviates or avoids the injury, is far preferable to that vindictive policy, which aims at reparation, or has no object but revenge. The precaution that meets the disorder is cheap and easy; the remedy, which follows it, bloody and expensive. The first great and acknowledged object of national defence in this country, is to maintain such a superior naval force at home, that even the united fleets of France and Spain may never be masters of the Channel. If that should ever happen, what is there to hinder their landing in Ireland, or even upon our own coast? They have often made the attempt; in king William's time it succeeded. King James embarked on board a French fleet, and landed with a French army in Ireland. In the mean time the French were masters of the Channel, and continued so until their fleet was destroyed by admiral Russel. As to the probable consequences of a foreign army landing in Great Britain or Ireland, I shall offer your lordships my opinion when I speak of the actual condition of our standing army.

The second naval object with an English minister, should be to maintain at all times a powerful western squadron. In the profoundest peace it should be respectable; in war it should be formidable. Without it, the colonies, the commerce, the navigation of Great Britain, lie at the mercy of the House of Bourbon. While I had the honour of acting with lord Anson, that able officer never ceased to inculcate upon the minds of his Majesty's servants the necessity of constantly maintaining a strong western squadron; and I must vouch for him, that while he was at the head of the marine it was never neglected.

The third object indispensable, as I conceive, in the distribution of our navy, is to maintain such a force in the bay of Gibraltar as may be sufficient to cover that garrison, to watch the motions of the Spaniards, and to keep open the communication with Minorca. The ministry will not betray such want of information as to dispute the truth of any of these propositions. But how will your lordships be astonished, when I inform you in what manner they have provided for these great, these essential objects? As to the first, I mean the defence of the Channel, I take upon myself to affirm to your lordships, that, at this hour (and I beg that the date may be taken down and observed) we cannot send out eleven ships of the line so manned and equipped that any officer of rank and credit in the service shall accept of

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the command and stake his reputation upon it. We have one ship of the line at Jamaica, one at the Leeward islands, and one at Gibraltar; yet at this very moment, for ought the ministry know, both Jamaica and Gibraltar may be attacked; and if they are attacked (which God forbid) they must fall. Nothing can prevent it but the appearance of a superior squadron. It is true that, some two months ago, four ships of the line were ordered from Portsmouth, and one from Plymouth, to carry a relief from Ireland to Gibraltar. These ships, my lords, a week ago, were still in port. If, on their arrival at Gibraltar, they should find the bay possessed by a superior squadron, the relief cannot be landed: and, if it could be landed, of what force do your lordships think it consists? Two regiments, of 400 men each, at a time like this, are sent to secure a place of such importance as Gibraltar! a place which, it is universally agreed, cannot hold against a vigorous attack from the sea, if once the enemy should be so far masters of the bay as to make a good landing even with a moderate force. The indispensable service of the lines requires at least 4,000 men. The present garrison consists of about 2,300; so that, if the relief should be fortunate enough to get on shore, they will want 800 men of their necessary complement.

Let us now, my lords, turn our eyes homewards. When the defence of Great Britain or Ireland is in question, it is no longer a point of honour; it is not the security of foreign commerce, or foreign possessions; we are to contend for the being of the state. I have good authority to assure your lordships that the Spaniards have now a fleet at Ferrol, completely manned and ready to sail, which we are in no condition to meet. We could not this day send out eleven ships of the line properly equipped, and to morrow the enemy may be masters of the Channel. It is unnecessary to press the consequences of these facts upon your lordships' minds. If the enemy were to land in full force, either on this coast or in Ireland, where is your army? where is your defence? My lords, if the House of Bourbon make a wise and vigorous use of the actual advantages they have over us, it is more than possible that on this day month we may not be a nation. What military force can the ministry shew to answer any sudden demand? I do not speak of foreign expeditions, or offensive operations. I speak of the interior defence of Ireland, and of this country. You have a nominal army of seventy battalions, besides guards and cavalry. But what is the establishment of these battalions? Supposing they were complete to the numbers allowed (which I know they are not) each regiment would consist of something less than four hundred men, rank and file. Are these battalions complete? Have any orders been given for an augmentation, or do the ministry mean to continue them upon their present low establishment? When America, the West Indies, Gibraltar, and Minorca, are taken care of, consider, my lords, what part of this army will remain to defend Ireland and Great Britain? This subject, my lords, leads me to considerations of foreign policy and foreign alliance. It is more connected with them than your lordships may at first imagine. When I compare the numbers of our people, estimated highly at seven millions, with the population of France and Spain, usually computed at twenty-five millions, I see a clear, self evident impossibility for this country to contend with the united power of the House of Bourbon, merely on the strength of its own resources. They, who talk of confining a great war to naval operations only, speak without knowledge or experience. We can no more command the disposition than the events of a war. Wherever we are attacked, there we must defend.

I have been much abused, my lords, for supporting a war, which it has been the fashion to call *my* German war. But I can affirm, with a clear conscience, that that abuse has been thrown on me by men, who were either unacquainted with facts, or had an interest in misrepresenting them. I shall speak plainly and frankly to your lordships on this, as I do on every occasion. That I did in parliament oppose, to the utmost of my power, our engaging in a German war, is most true; and if the same circumstance were to recur, I will act the same part and oppose it again. But when I was called upon to take a share in the administration, that measure was already decided. Before I was appointed Secretary of State, the first treaty with the king of Prussia was signed, and not only ratified by the crown, but approved of and confirmed by a resolution of both Houses of Parliament. It was a weight fastened upon my neck. By that treaty, the honour of the crown and the honour of the nation were equally engaged. How I could recede from

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such an engagement; how I could advise the crown to desert a great prince in the midst of those difficulties, in which a reliance on the good faith of this country had contributed to involve him, are questions I willingly submit to your lordships candor. That wonderful man might, perhaps, have extricated himself from his difficulties without our assistance. He has talents which, in every thing that touches the human capacity, do honour to the human mind. But how would England have supported that reputation of credit and good faith, by which we have been distinguished in Europe? What other foreign power would have sought our friendship? What other foreign power would have accepted of an alliance with us?

But, my lords, though I wholly condemn our entering into any engagements, which tend to involve us in a continental war, I do not admit that alliances with some of the German princes are either detrimental or useless. They may be, my lords, not only useful, but necessary. I hope, indeed, I never shall see an army of foreign auxiliaries in Great Britain; we do not want it. If our people are united; if they are attached to the King, and place a confidence in his government, we have an internal strength sufficient to repel any foreign invasion. With respect to Ireland, my lords, I am not of the same opinion. If a powerful foreign army were landed in that kingdom, with arms ready to be put into the hands of the Roman Catholics, I declare freely to your lordships, that I should heartily wish it were possible to collect twenty thousand German protestants, whether from Hesse or Brunswick, or Wolfenbuttle, or even the unpopular Hanoverian, and land them in Ireland. I wish it, my lords, because I am convinced that, whenever the case happens, we shall have no English army to spare.

I have taken a wide circuit, my lords; and trespassed, I fear, too long upon your lordships' patience. Yet I cannot conclude without endeavouring to bring home your thoughts to an object more immediately interesting to us than any I have yet considered; I mean the internal condition of this country. We may look abroad for wealth, or triumphs, or luxury; but England, my lords, is the main stay, the last resort of the whole empire. To this point every scheme of policy, whether foreign or domestic, should ultimately refer. Have any measures been taken to satisfy, or to unite the people? Are the grievances they have so long complained of, removed? or do they stand not only unredressed, but aggravated? Is the right of free election restored to the elective body? My lords, I myself am one of the people. I esteem that security and independence, which is the original birthright of an Englishman, far beyond the privileges, however splendid, which are annexed to the peerage. I myself am by birth an English elector, and join with the freeholders of England as in a common cause. Believe me, my lords, we mistake our real interest as much as our duty, when we separate ourselves from the mass of the people. Can it be expected that Englishmen will unite heartily in the defence of a government, by which they feel themselves insulted and oppressed? Restore them to their rights; that is the true way to make them unanimous. It is not a ceremonious recommendation from the throne, that can bring back peace and harmony to a discontented people. That insipid annual opiate has been administered so long, that it has lost its effect. Something substantial, something effectual must be done.

The public credit of the nation stands next in degree to the rights of the constitution; it calls loudly for the interposition of parliament. There is a set of men, my lords, in the city of London, who are known to live in riot and luxury, on the plunder of the ignorant, the innocent, the helpless—on that part of the community, which stands most in need of, and best deserves the care and protection of legislature. To me, my lords, whether they be the miserable jobbers of Change-alley, or the lofty Asiatic plunderers of Leadenhall-street, they are all equally detestable. I care but little whether a man walks on foot, or is drawn by eight horses or six horses; if his luxury be supported by the plunder of his country, I despise and detest him. My lords, while I had the honour of serving his Majesty, I never ventured to look at the Treasury but at a distance; it is a business I am unfit for, and to which I never could have submitted. The little I know of it has not served to raise my opinion of what is vulgarly called the monied interest; I mean that bloodsucker, that muck-worm, which calls itself the friend of government—that pretends to serve this or that administration, and may be purchased, on the same terms, by any administration—that advances money to government, and takes special care of its own emoluments. Under this des-

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cription I include the whole race of commissaries, jobbers, contractors, clothiers, and remitters. Yet I do not deny that, even with these creatures, some management may be necessary. I hope, my lords, that nothing I have said will be understood to extend to the honest, industrious tradesman, who holds the middle rank, and has given repeated proofs, that he prefers law and liberty to gold. I love that class of men. Much less would I be thought to reflect upon the fair merchant, whose liberal commerce is the prime source of national wealth. I esteem his occupation, and respect his character.

My lords, if the general representation, which I have had the honour to lay before you of the situation of public affairs, has, in any measure, engaged your attention; your lordships, I am sure, will agree with me, that the season calls for more than common prudence and vigour in the direction of our councils. The difficulty of the crisis demands a wise, a firm, and a popular administration. The dishonourable traffic of places has engaged us too long. Upon this subject, my lords, I speak without interest or enmity. I have no personal objection to any of the King's servants. I shall never be minister; certainly not without full power to cut away all the rotten branches of government. Yet, unconcerned as I truly am for myself, I cannot avoid seeing some capital errors in the distribution of the royal favour. There are men, my lords, who, if their own services were forgotten, ought to have an hereditary merit with the House of Hanover; whose ancestors stood forth in the day of trouble, opposed their persons and fortunes to treachery and rebellion, and secured to his Majesty's family this splendid power of rewarding. There are other men, my lords, [looking sternly and shaking his fist at lord Mansfield] who, to speak tenderly of them, were not quite so forward in the demonstrations of their zeal to the reigning family; there was another cause, my lords, and a partiality to it, which some persons had not, at all times, discretion enough to conceal. I know I shall be accused of attempting to revive distinctions. My lords, if it were possible, I would not wish the favours of the crown to flow invariably in one channel. But there are some distinctions, which are inherent in the nature of things. There is a distinction between right and wrong,—between Whig and Tory.

When I speak of an administration, such as the necessity of the season calls for, my views are large and comprehensive. It must be popular, that it may begin with reputation. It must be strong within itself, that it may proceed with vigour and decision. An administration, formed on an exclusive system of family connexions or private friendships, cannot, I am convinced, be long supported in this country. Yet, my lords, no man respects or values more than I do, that honourable connexion, which arises from a disinterested concurrence in opinion upon public measures, or from the sacred bond of private friendship and esteem. What I mean is, that no single man's private friendships, or connexions, however extensive, are sufficient of themselves, either to form or overturn an administration. With respect to the ministry, I believe, they have fewer rivals than they imagine. No prudent man will covet a situation so beset with difficulty and danger.

I shall trouble your lordships with but a few words more. His Majesty tells us in his Speech, that he will call upon us for our advice, if it should be necessary in the farther progress of this affair. It is not easy to say whether or no the ministry are serious in this declaration; nor what is meant by the progress of an affair, which rests on one fixed point. Hitherto we have not been called upon. But though we are not consulted, it is our right and duty as the King's great hereditary council, to offer him our advice. The papers, mentioned in the noble duke's motion, will enable us to form a just and accurate opinion of the conduct of his Majesty's servants, though not of the actual state of their honourable negociations. The ministry, too, seem to want advice on some points, in which their own safety is immediately concerned. They are now balancing between a war which they ought to have foreseen, but for which they have made no provision, and an ignominious compromise. Let me warn them of their danger. If they are forced into a war, they stand it at the hazard of their heads. If, by an ignominious compromise, they should stain the honour of the crown, or sacrifice the rights of the people, let them look to the consequences, and consider whether they will be able to walk the streets in safety.

Earl *Gower*:

My lords; though the noble lords who have spoken against the present mo-

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tion, have said sufficient for your lordships to give it an immediate rejection, I cannot think my duty satisfactorily discharged as a member of this House, without giving more than a simple negative; under colour of a superior attachment to the welfare, the honour of the kingdom, our patriots seem insidiously desirous of sacrificing both to the views of their popularity. Rendered desperate by their total insignificance within doors, they are indefatigably sedulous, to preserve some little consequence among the rabble without; and are therefore continually harassing your lordships with such questions, as seem likely to excite the admiration of their supporters in the suburbs. If it was not for these questions their names would never be heard of; they would crawl out of creation as quietly as they crawled in, and as a modern writer, speaking of a patriotic nobleman in my eye, very aptly expresses it, "add only a single unit to the bills of mortality."

The ends of the noble lords, therefore, being so obvious and so contemptible, I shall not descend to a farther observation of their principles, but confine myself solely to the question before the House. It is on all hands agreed, my lords, that if the present object of dispute between Great Britain and Spain can be adjusted in an amicable manner, without lessening the honour of this kingdom; that if we can avoid a war, and yet maintain our reputation; I say, my lords, it is on all hands agreed that if we can do this, we shall essentially consult the national prosperity. This the noble lords, who contend for the propriety of storming the cabinet, have themselves repeatedly acknowledged, notwithstanding their vehemence for an immediate commencement of hostilities. Yet though we can avoid a rupture with honour, though the dispute with Spain is in the fairest way of being amicably adjusted, still havoc is the only cry, the dogs of war must at all events be unchained, and nothing can be properly terminated without blood.

To enforce this assertion, my lords, give me leave to observe, that the dispute with Spain is in a manner already settled; his Catholic majesty has disavowed the conduct of his officer; has disclaimed all intention of violating the faith of treaties; and whether he disavows from principle, or disclaims from policy, is a matter of very little consequence to this kingdom. Were he industrious for occasions to quarrel, were he desirous of invading the territories of England, and were he in a condition of gratifying a desire of that nature, there could be no motive for his pacific assurances; it would be unnecessary to deny, what he judged necessary to practise: hostilities cannot be commenced against us in secret; we cannot be robbed of dominions without our knowledge; we must feel, whenever he thinks proper to strike, and of consequence we cannot suppose the king of Spain would degrade himself by a deliberate falshood, which was no way calculated to advance his designs against the rights of this country. The very pride attributed to his nation, would prevent such a littleness; the very haughtiness of which our patriots complain in the court of Madrid, argues the impossibility of the circumstance. Pride, indeed, is often mean to obtain a favourite end; but to be mean without an end, to be despicable without a purpose, is seldom the characteristic, either of a high-spirited prince, or a sensible people.

The noble lords who support the motion will possibly ask, Why, if his Catholic majesty's sentiments are thus pacific, are we still kept out of Falkland's island? They will ask, why is not Don Francisco Buccarelli recalled, why is not he punished for acting in opposition to his master's views, and called to a severe account for daring to invade the territories of England? To these questions, the noble lord who spoke last, unanswerable as he may think them, has furnished me with a very sufficient reply. His lordship tells us, that we have been in possession of Falkland's island, only since the year 1764 or 1765, and that even during this inconsiderable period, the Spaniards have repeatedly claimed the island from our ministers, as their own indubitable property. By this account, my lords, instead of our declaring war against Spain, Spain actually had a cause of declaring war against us, and instead of her desiring, instead of her making a rupture with England, she has on the contrary, for four or five years, contented herself with a very harmless negociation. Ay, but says the noble lord, Is not the island at this moment in the hands of Don Francisco Buccarelli, in the hands of the Spanish governor; shall we admit of such an indignity, shall we make it a matter of dispute, whether his Majesty's dominions shall, or shall not be restored? A strain of interrogatory like this, my lords, is, to be sure, exceedingly animated; it must alarm the

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whole kingdom. The noble lord wishes to rouse, he wishes to alarm—but alas! the cloud attending the thunder of his eloquence, is not thick enough to conceal the inconsistency of his arguments. He forgets, my lords, that by his own acknowledgment, our right to Falkland's island was litigated from the first: he forgets that the Spaniards often applied to our ministry upon this very subject, and that of consequence our pretensions to the exclusive possession, are neither so ancient nor so clear, as the noble lord would insinuate: I am not saying that this justifies the capture of the island, but I must nevertheless insist, that it is a reasonable plea for our negociating with Spain. If, as the noble lord says, our claim to Falkland's island is so very disputable, and if the Spaniards, since our first possessing it, have urged a title to it; is it at all surprising, that Don Francisco Buccarelli should think it a real appendage of the Spanish crown? Or is it at all surprising, when we demand it peremptorily as our right, if the court of Madrid, though it disavows the capture, should examine into the nature of that right, and make it a necessary circumstance of negociation? The noble lords, who are so earnest for a war, do not seem themselves very certain with respect to our property in the object of dispute; but right or wrong, whether it belongs to us, or does not belong to us, we must instantly proceed to hostilities, our honour is diminished, if we enquire into the ground of altercation, and it is injurious to our national character, to know whether we have or have not a real foundation of offence.

The noble lords will possibly say, that the Spaniards are all this time only amusing us with a negociation; that they are only gaining time to put themselves in a situation to attack us, and that the moment they have the ability, they will manifest the will of breaking openly with England. Well, my lords, even admitting this to be the case, is not their very artifice of essential use to this country; does it not give us time to put ourselves in a state of repelling force by force; in a state of repairing the miserable effects of ministerial negligence, in a state of providing for the necessary defence of the kingdom? If our army and our fleet are in so wretched a condition, as patriotism is pleased to represent, what can be more judicious than a protraction of the negociation? A protraction is the wisest measure which government can possibly pursue, till it acquires strength enough to make an effectual opposition to the enemy; till it acquires strength enough to carry on a war with some prospect of success, and furnishes some little probability of our preserving that military reputation, which we have fortunately established in every quarter of the globe.

The noble lords, however, who argue for the motion, may think it more honourable to be beaten in the field, or to be vanquished on the ocean, than to negociate a moment longer. They may think defeat more eligible than argument; for my own part I am of a very different opinion; I am not for fighting, without the hope of victory; I am not for sending out a British force merely to be slaughtered, nor for wasting our wealth to give an unnecessary triumph to our enemies. If we believe the noble lords, these enemies have already gained too great a triumph over us; and the last speaker has particularly assigned an unanswerable reason for our avoiding a war on any terms. He tells us, that when he compares the number of our people, estimated highly at 7 millions, with the population of France and Spain, usually reckoned at 25 millions, he sees a clear, a self-evident impossibility, for this country to contend with the united power of the House of Bourbon, merely upon the strength of its own resources. Yet, though he sees the clear, the evident impossibility of such a contention, he nevertheless calls loudly for a war, and makes a mighty parade of his public virtue, in advising what he himself confesses our inevitable destruction. This is not all, though our force is so dangerously inferior to the House of Bourbon, though our own resources are thus inadequate to the end of our preservation, the noble lord will not allow us to seek for foreign assistance; no, says he, "I hope I shall never see an army of foreign auxiliaries in Great Britain; we do not want it, if our people are united; if they are attached to the King, and place a confidence in his government, we have an internal strength sufficient to repel any foreign invasion." What, my lords, are our 7 millions so utterly unable to contend with the 25 millions of France and Spain, and have we at the same time an internal strength sufficient to repel any foreign invasion? If we are not equal to vindicate our own rights, why does he exhort us to an immediate war? If we have a sufficient internal strength, where does he see the

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clear, the evident impossibility of our contending with the united power of the Bourbon family, merely upon the strength of our own resources? Our own resources in the last war, my lords, not only enabled us to combat, but to conquer the united powers of that family: our own resources were not only adequate to our own defence, but to the defence of other nations. But the noble lord is accustomed to play the part of Æsop's traveller; through life he has been remarkable for blowing hot and cold, as his purposes were answered; we must not therefore wonder at his present incongruity: we must let him talk of our weakness and our strength with the same breath; we must suffer him to represent us on the verge of ruin, and in the meridian of prosperity; all we have to do is to disregard the self-refuting absurdity of his reasoning, and act upon such principles as square with the dictates of common sense, and evident utility.

The noble lord will possibly tell me, that during the last war the people were united; and that their union was the chief source of all our good fortune. Will his lordship venture to assert, with all his contempt of administration, that they will not be again united against a common enemy, if a fresh war is commenced to-morrow? Who, let me ask him, are calling out for a war, but the very faction which is adverse to the ministry—but the very patriots, as he calls the seditious opposition to all legal government? Dare he say, that this opposition will not assist in the war which it is so desirous to commence, or can he imagine it will become a voluntary conquest to the foe, out of resentment to administration? A belief of this kind may perhaps be inculcated with success in the regions of Bedlam—here it is too gross—here therefore let us despise it. If we judge it necessary to break with Spain, we have the surest tie upon the assistance of every individual in the state—we have the tie of his own interest, and we know he will defend himself, though he detests the minister. However, as the breach is not likely to happen, till it becomes indispensably requisite, I shall vote for the previous question.

Lord *Shelburne:*

My lords; it is extremely evident, whether we commence a war with Spain, or tamely crouch under the insults of that haughty kingdom; it is extremely evident, whether we spiritedly draw the sword, or purchase an inglorious security by the sacrifice of our national honour, that we shall neither be united at home, nor respected abroad, till the reins of government are lodged with men who have some little pretensions to common sense and common honesty. Had our ministers, my lords, even the wish to act with wisdom, they have not the ability. The mere possession of their places does not give them a capacity to understand, or a resolution to execute. They have received no instruction in the real schools of business, and, ignorant of every thing but their own interest, they look down from their accidental elevation, confused, astonished, terrified. Ashamed to descend, and yet afraid to act on the lofty pinnacle of power, the welfare, the reputation of the kingdom is hourly given up; nothing is attended to, but the preservation of their official emoluments, and so these emoluments can be preserved, they are deaf to the execrations of their indignant countrymen. For these reasons, my lords, necessary as a war with Spain may be, who could wish to have the direction of so important a business in such feeble, in such incompetent hands? Indeed, if there was a likelihood, that the difficulty of conducting the military operations of an injured people, would force them from the employments they disgrace, it would be actually worth our while to commence a war, merely for the purpose of gaining a fresh administration. But while the baleful influence of the northern star continues, peace or war must be equally indifferent, the public will be plundered and betrayed; the glory of the British crown will be eclipsed, and the queen of nations made an object of ridicule to every potentate in Europe.

Lord *Weymouth:*

My lords; a strain of general invective is so customary with the opposition, that I should not have been in the least surprized, if the noble lord who spoke last, had condemned both the hearts and the heads of the ministry in the gross; but when he speaks of their total unacquaintance with business, and tells us, that they have never had any opportunities of acquiring a knowledge of their offices, I am provoked by his temerity, to ask him where he acquired a knowledge of business? where his noble friend the marquis acquired a knowledge of business? or where even the chief oracle of opposition,

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who harangued so elaborately on the distresses of the kingdom, acquired a knowledge of business? The noble lord, indeed, made a campaign during the late war, but his military prowess surely did not qualify him to be secretary of state, yet his lordship very confidently accepted the seals the moment they were offered to him, and never thought there was the least necessity for an official gradation to that important employment. The noble marquis also, previous to his presiding at the Treasury, filled the *difficult* station of a lord in the bed-chamber; yet, in my opinion he could not gain a very extensive knowledge of business in that character; nor do I think the chief orator of the party made himself a proficient in the science of government, by holding a sinecure vice-treasurership of Ireland. Why, therefore, is the inexperience of others so mighty an object of reproach? Are the noble lords modest enough to entertain a very high opinion of themselves, and a very contemptible one of their opponents? How is the superiority of their understanding made apparent? Does it appear in the closeness of their reasoning, the consistency of their conduct, or the effect of their operations? I almost blush to ask these questions: I am afraid the noble lord, who spoke last, will think I want to degrade the members of the present administration into a competition of talents with him, but I will not attempt to injure him so far, or to lessen the ministry so wantonly. I shall therefore only add, that those who have triumphed over faction at home, brought the Americans back to their duty, and established the most permanent harmony between the King and his parliament, have proved their knowledge of business sufficiently to deserve, and to gain the first employments of their country.

Lord *Lyttelton:*

My lords; I shall by no means enter into the personality of political argument. I am sorry whenever the least appearance of personality seems prevalent in this House; and wish, as we are all united in one common band of interest, to hear the different opinions, on the best methods of advancing that interest, delivered with a politeness becoming the dignity of our rank. My opinion, my lords, I candidly confess, is in favour of the motion. I think parliament can never have too ample a field for information, we are the hereditary counsellors of the crown, and how are we to counsel without a particular acquaintance with facts? when are we to counsel but in times of public danger? and what are we this moment met for, but to consider the business of the kingdom? While I say this, however, my lords, I must express my concern at the melancholy colours in which the friends of the motion have given us a picture of the kingdom. I am apprehensive—nay, I am satisfied, that we are not in so good a posture of defence, as we ought to be. But let us not intimidate the people by our fears, when we ought to fire them by our resolution; let us cease to encourage the injurious designs of our enemies by exaggerating the weakness of our country. Every ambassador has his emissaries; there may be Spanish emissaries at this moment here; I shall, therefore, conclude, nor even whisper my fears, lest they may be prejudicial to my fellow subjects.

Lord *Sandwich:*

My lords; I am heartily for the previous question, and thoroughly convinced with respect to the injustice of the accusations, which in the course of the debate have been urged against his Majesty's ministers. Their proceedings have, in the general, been pronounced weak and wicked; the terms folly and treachery have been very plentifully poured upon their conduct, and if the voice of popularity is to be credited, they ought to be instantly sacrificed to the just resentment of the kingdom. It is not a little unfortunate however, for the open rivals of administration, the declared candidates for office, that the legal judges of ministerial rectitude or delinquency, are quite of a contrary opinion; that no period of the British history can shew an administration, more powerfully supported; more heartily approved by both houses of parliament than the present; notwithstanding the universal detestation in which they are held, notwithstanding the outcry industriously fomented against them in every quarter of the kingdom, still the only constitutional tribunal at which their actions can be tried, bears testimony to their worth, and applauds their integrity; it has deemed the charges, urged by their enemies, too despicable, too rancorous even to be heard: it has dismissed them with insuperable contempt, and declared that its own honour, even in the most atrocious allegations of criminality, was

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immediately connected with the honour of his Majesty's ministers.

The noble lords will undoubtedly say, that the parliamentary majority, which has thus supported the measures, pursued by the servants of the crown, is a corrupt majority of court dependants, composed of placemen and place-hunters, pensioners, contractors, officers in the army, and practitioners at the bar, who have continual favours either to solicit or expect from administration. Who, however, let me ask, are the pillars of the opposition? discarded courtiers with their hungry retainers; men rendered implacable by dismission, and desperate through necessity; men who are maddened at having lost their places, and who would do any thing to recover them: they will not, I hope, be offended at this imputation of venality; they deal very largely in imputations of venality themselves, and must not be astonished at recrimination: it is moreover as natural for them to violate the principles of honesty to gain, as it is for the objects of their envy to be corrupt, through a desire of keeping possession of their employments; besides, my lords, let me ask when the patriots themselves were in power, if they did not make use of the very placemen and pensioners, whom they now treat with so much contempt, and declare to be utterly unfit for the confidence of the kingdom; when they were in the great departments of government no complaint whatever was made of places or pensions; nay these mirrors of political virtue were the first to stipulate for them; were the first to encrease the burdens of their miserable country by personal appointments and reversions in case of dismission, to their families. The present prostitute administration, as they are pleased to call it, has done nothing like this; the members of it have come in without condition, if they go out to-morrow, they will go out without condition, and leave the plunder of their country to its immaculate deliverers.

The noble lords who have spoken in support of the motion, seem to think, that if the present administration is bellowed out of office, unanimity will be immediately restored at home, and that they will be able to take a quiet possession of all the great employments in the state. In this, however, they must be miserably disappointed; they are all patriots now while out of place, but the different leaders of opposition are as adverse to each other as they are inimical to administration; they differ besides as much in their political creed, as they affect to differ from the principles of government. One party declares impressing for the sea service utterly repugnant to the constitution; another party is for calling the abettors of this dangerous doctrine to immediate punishment. One party is for governing by an aristocracy of the great families; another thinks such a measure injurious to the privileges of the people. Some are for remonstrating only; others are for impeachments: in short down to Wilkes and Edridge they are divided among themselves; so that if a new arrangement was instantly to take place, we must only expect a fresh flame of discord raging through the kingdom. At present, opposition is in a manner annihilated; change hands however, and you furnish a new opportunity for complaining; the leaders of our different parties aspire each, to take the lead in office; each refuses to admit the superiority of the other; what therefore are we to gain by a change? Let the opposition itself answer; and let them, if they can, say, that all would not be as the poet says, "anarchy and uproar."

Having delivered my sentiments thus freely, my lords, give me leave to take some notice of what a noble earl has been pleased to say, with respect to the propriety of an hereditary gratitude in the crown to the great Whig families; his lordship talks much of the merit which these families had in bringing in the House of Hanover, and it is a merit I am very ready to acknowledge; but will the noble earl say, that because they served their country, and consequently themselves, in bringing in the House of Brunswick, that they are therefore to make a perpetual monopoly of the royal favour? If bringing in that line was not a national good, they are traitors to the community; if it was a national good, the present reigning family, instead of being obliged, conferred an actual obligation. Besides, my lords, is the booby descendant of a Whig, to be employed in the first departments of the state, because his ancestor was a man of abilities; or is the deserving offspring of a Tory to be overlooked, because his father's principles were obnoxious? If principles, my lords, are hereditary, we must be all attached to the House of Stuart; nay, we brought in his Majesty's great grandfather because he was the nearest Protestant relation to that House.

It is not to the House, my lords, we ever

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objected, but to the Papists of the House. In the moments of our warmest indignation against the bigot James the second, we loved his family, we placed his daughter on the throne, and, as I before observed, it was our love for the Protestant part of his family, that led us to apply to the electress Sophia in the settlement of the regal succession. The noble lord wishes, he tells us, to abolish all party distinctions, yet he is greatly offended that the distinction of Whig and Tory is not inflexibly kept up; the King must govern by a faction to please his lordship, he must not be the common father of his people, but only the monarch of the Whigs; at a time that these destructive distinctions are happily hastening to oblivion, they must be revived by a judicious sovereign, and to conciliate the affections of all to the government of a Brunswick prince, the unoffending posterity of the Tories must be held in a state of eternal proscription! What weight, what regard, my lords, is due to the reasonings of such wretched politicians; these mountebanks in government, who prescribe the revival of parties as the means of restoring domestic peace, and when they paint us on the brink of ruin, declaim on the necessity of our commencing an immediate war! To your lordships I submit the debate, and desire the previous question may now decide the force of our respective arguments.

The marquis of Rockingham and the duke of Manchester supported the duke of Richmond's motion.

The previous question was then put, when 65 were for it, and 21 against it. The other motions were negatived without a division.

*Debate in the Commons on a Motion for Papers relating to the Seizure of Falkland's Island.**] November 22. Mr. *Dowdeswell* moved, "That an humble Address be presented to his Majesty, that he will be graciously pleased to give directions, that there be laid before this House, copies or extracts of all letters, or other papers, containing any intelligence received by either of his Majesty's principal secretaries of state, or by the commissioners for executing the office of lord high admiral of Great Britain, or by any other of his Majesty's ministers, between the 12th of September 1769, and the 12th of September 1770, touching any hostilities commenced, or designed to be commenced, by the crown of Spain, or any of its officers, against any part of his Majesty's dominions, expressing the time and times at which such intelligence was received." He spoke as usual, with a great deal of knowledge, clearness, and good sense; shewed his motion was regular as to general practice, and necessary in the present moment.

Mr. *Cornwall* seconded the motion with great force, and endeavoured to shew that the minister's violence and folly had disgusted the people, which greatly encouraged the enemy to offer the most daring insults. He had little hopes of union among ourselves, or peace with the enemy, while our present ministers continued in office.

Lord *Clare* raised his loud voice, and frequent loud laughs from the House. He talked of taking example from *futurity*, and was very vehement for good humour, and above all, for unanimity; asserting, that they ought to be all of his mind, for that he and his friends would not change a jot from their former conduct.

Mr. *Henry Cavendish* answered, in a short, spirited manner, that while such ministers continued in employment, insulting, and robbing the people, there was nothing worth fighting for, and, if the French were to land an army this moment upon our coast, he would not budge an inch to oppose them, till the public grievances were redressed.

Mr. *William Burke* shewed not only the folly, but the falsity, of saying that the taking of Falkland's island, was the act of the governor of Buenos Ayres. It being notorious that he acted by the orders of the court of Spain.

Governor *Pownall* entered into the whole argument at large, with full knowledge of his subject. He shewed the little utility a settlement upon Falkland's Island was to us, but having been once made, it could not be given up.

Mr. *Calcraft* said, he was an independent gentleman, a follower of no man, or set of men. He thought we ought to begin with amending what was amiss at home, and was for the production of the papers.

Mr. *George Onslow* defended the minister, and the rest of the King's servants.

Sir *Joseph Mawbey* replied to him, but he did not meet with all the attention that his good sense and good intention deserved.

* From the London Museum.

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Mr. *Charles Fox* then rose in defence of the ministry. He shewed some ingenuity, in endeavouring to confound the reasonings of his opponents, and concluded by moving the previous question.

Lord *Bellasyse* spoke next. This young lord acted a very strange part. He first spoke for the papers; talked of his being an independent gentleman, without bias, who came to do his duty, but how could he do it, if some information was not given him? therefore, he thought, the having the papers, quite a right thing, and declared, he would vote for having them. As soon as he had sat down, his brother-in-law, the new-made lord Melbourne, came to him, and took him home to dinner. After dinner, he returned to the House, and, in a second speech said, he had changed his mind, that having the papers he thought would be very improper; that he had a very good opinion of his Majesty's servants, and promised to vote against having the papers. He voted with the ministry.

Lord *Catherlough*, in answer to Mr. Cavendish, said, that although that gentleman would not oppose the French, if they landed upon our coast, yet a majority of that House would.

Sir *Gilbert Elliot*, seeing the ministers hard run, stood up, and gave the best grace he could to young Fox's arguments, and then to lord Clare's. He spoke dexterously, and endeavoured to draw the attention of the House from the question.

Sir *Edward Astley*, bart. spoke next. He was short, manly, spirited, and as became an independent knight of the shire. He asked why the ministers had brought him from his affairs in the country, if they had nothing to say, and would tell him nothing.

Mr. *Thomas Townshend* spoke with great indignation, and begged that the vile scene of stock jobbing, whether by the Jews of the Alley, or the Jews of St. James's, might be put a stop to. Nothing could be better imagined, or better expressed.

Lord *John Cavendish*, with all the spirit of manly confidence, founded in deserved rank and importance, exposed the idle pretence of refusing the papers upon the plea of their divulging secrets of a subsisting negociation. He shewed, that the motion did not aim at any thing that ever was in negociation, but was simply confined to intelligence, exclusive of all negociation. He insisted strenuously on the papers, and shewed the necessity of beginning with satisfying the people.

Mr. *Mackworth* said he was independent, and would vote for the papers, if any body would give him a reason for so doing. He voted with the ministry.

Lord *George Germaine* spoke next, with great knowledge of all the points he spoke to, and with that masterly quickness that characterises his lordship's speeches, he shewed that the ministers had been guilty of more neglect and inattention than one would think men, who had any regard for their heads, not to say their own or their country's honour, could be capable of; but these men have, in fact, no attention to their own characters.

It was now near seven o'clock, and the ministers were anxious to put the question. But Mr. Dunning stood up, and shewed it to be an insult on the House, that none of the ministers, who knew how the matter stood, would condescend to say a word about it. His good sense and manly spirit provoked them into a reply.

General Conway and lord North were both up; but lord North sat down for a while; and the general made the best defence he could for the ministers; but he went out of his way to abuse the opposition. He was up three or four times in reply to lord George Germaine, sir W. Meredith, Mr. Burke, and colonel Barré. He had a dispute with colonel Barré about the Rochfort affair; but sir W. Meredith first, then Mr. Burke, and lastly, and most severely, lord George Cavendish, in sad and weighty words, have perhaps taught him to avoid hard terms of the opposition for the future; and neither of them used one angry word, but they spoke daggers to an honest mind. Sir William drew a beautiful description of the general, when that general led an opposition; but reminded him, that the General Warrants, and the ground of opposition at that day, was nothing of the consequences of the present grievances, which he chuses to support.

Mr. *Burke* reminded the general how disgraceful it was to sit patiently, and hear lord North vilify that very act, the repeal of the Stamp Act, on which the general's character was founded. He then, in the highest strains of oratory, gave an account of the Rockingham party; said it was an opposition founded on principle, formed of the wealthiest, wisest, and the honestest men in the kingdom; that neither the frowns of the court, nor

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the clamours of the people, should drive them from their honest purposes; that when they were in, they looked for no profits; that the repeal was carried, by the most uncorrupt majority, against the joint endeavours of placemen and pensioners; though that majority is now vilified by those very persons, who are jealous of every word that looks like disrespect to the majorities, that do all the strange things that are now done; and that the party went out of office, leaving reversions and places to be scrambled for by those who now hold them. All he said seemed to be the pride of virtue, and the just confidence of a great mind in the exertion of a duty.

General *Conway*, in his reply, did justice to that party, to whom he gave all Mr. Burke's epithets; and complimented Mr. Burke too, as meaning honourably, but claimed to himself the same meaning, and complained that he should be so mistaken and misrepresented; and that the little, contemptible opposition he had alluded to, was Wilkes's party.

Lord *North* now rose, but lost his usual triumphing and overbearing manner. He was all civility and condescension, and it must be owned that in his humility he found words apt and fit for his condition. In some turns he did not want wit, especially in playing on a line that had been used at the beginning of the debate; but he paid severely for it in Mr. Burke's reply; and when lord North came to the reasoning part, he made indeed a sad hand of it. He is not very remarkable as a good reasoner, and this night he was very poor.

Colonel *Barré* followed him, in a very severe, and fine strain of eloquence. Sir Gilbert Elliot seemed not a little vexed at a ridiculous account of a friendship he had professed for lord Chatham; with infinite wit and humour the colonel called it a little snug, pocket friendship; that the baronet had kept in his side pocket, all the time it was his duty to support lord Chatham as a minister. Lord North, he made ridiculous beyond measure. In a word, it was a performance of prodigious merit.

Lord *Barrington* rose next, but the Speaker called him to order. It was in reply to his lordship, that general Howard said a few words sensible and proper. He stiled the Secretary's words on the 13th, wanton, idle, and unprovoked.

The debate seemed once more at an end, when Mr. Wedderburn rose; he was entirely argumentive, and if he did not exert his usual powers of eloquence, he was extremely sensible and just, and exposed the facility of the little pretence to reason and argument that sir Gilbert Eliot had supplied.

Mr. *Rigby* affected to answer Mr. Wedderburn, but he knew nothing, he pretended to know nothing, and he said nothing; except expressing the sovereign contempt which he and the Bloomsbury gang have of the city of London.

It was now late, Mr. Burke rose, we have already mentioned this gentleman in the course of general Conway's speech: it is not within the compass of one man's memory, to give a particular account, or an exact criticism of every gentleman's speech; all we attempt is, a kind of general character of each performance. Whenever the repeal of the Stamp Act is objected to, or his own or his party's intentions traduced, it seems to rouse his whole soul. All this was undoubtedly done this night, and it seemed to give double spirit, fire or force, to his faculties: life, wit, railing and argument all combined to confound his opponents.

Lord *George Cavendish*, late as it was, rose to accept his proportion of that description general Conway had given of a little, contemptible, mean, worthless faction, that would continue their opposition in the case of war.

The House then divided. The Noes went forth.

Tellers.

Yeas	Sir Joseph Mawbey Mr. Byng	101
Noes	Sir Charles Whitworth Mr. Burrell	225

So it passed in the negative.

*Motion in the Commons for a Committee on so much of the Criminal Laws as relate to Capital Offences.**] November 27. Sir *William Meredith*, bart. made a motion for an enquiry into the state of the Criminal Laws of the kingdom, which he introduced in the following speech.

Sir; in a well-regulated state, nothing is more requisite than to proportion the punishment to the crime, and to satisfy the minds of the people that equal justice is administered to every delinquent. Thus will the laws be cordially reverenced: there will be no murmurs, no discontents,

* From the London Museum.

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from the idea of their gentleness to one and tyranny to another. None will complain that he is as severely punished for picking, in extreme necessity, a man's pocket of a handkerchief worth thirteen pence, as another person is for murdering a whole family of benefactors. Is this the case in England, which boasts of the wisdom of its laws and constitutions? The reverse is notorious. Our criminal laws seem to have been formed on the principles of the Stoics, who deemed all sins equal; or rather they breathe the spirit of Draco, whose laws were all written in blood. In all, the penalty is hanging; in larcenies and petty thefts, as well as in treason and murder. Is this the way to bestow weight and authority, and reverence on the laws? No. But it is the way to render the people ferocious and sanguinary. For what in the punishment for murder is tender mercy, is comparatively enormous cruelty in the punishment of petty thefts; and cruelty in punishing produces in the people a barbarous and bloody disposition. Turn your eyes, Sir, to the Japanese. Nothing can be more horrible than their executions. Their dispositions are conformable; they are savagely cruel. The state of other nations justifies the same remark; and the maxim is now so well understood, that it would be idle to prove it by more examples. The Athenians soon felt its force, and accordingly exchanged the sanguinary laws of Draco for the gentle institutions of Solon. That acute and ingenious people saw that they had a bad effect on their morals, and tended only to throw them back into that state of barbarity out of which they had emerged. May not the present condition of our laws have a similar influence? Foreigners pretend that this is already the case; that we are ferocious, brutal, and cruel. I cannot subscribe to their opinion. I think our distinguishing characteristics are generosity, humanity, and beneficence; virtues incompatible with the vices charged upon us. But while I thus do justice to our national character, I do not think that we owe it to the spirit of our criminal law. That having an evident tendency to multiply rather than to diminish crimes, can never be supposed to improve the morals or the manners of any people. These virtues, therefore, we derive from other parts of our constitution, that are more benign and favourable.

Sir; every one must own that these considerations are of themselves weighty enough to incline wise senators to this inquiry. If some gentlemen should not see the matter in this light, I hope that the argument which I am now going to advance will have better success. The strength of any country depends, in a great measure, on the number of its industrious inhabitants. Nothing, therefore, can be an object of greater attention to a statesman than population. He will be cautious of depriving the community of any member, that can by any expedient be rendered useful. He will never amputate a limb from the body, but when it is infected with an incurable gangrene, that threatens destruction to the uncorrupted part. Sir, has this been the policy of Great Britain? I answer, No. If it had, such numbers would not annually fall victims to the arm of unrelenting law. It may appear extraordinary, and yet the fact is certain, that in the sanguinary reign of Henry 8, 72,000 persons perished by the axe or gibbet. The cruel spirit of that bloody tyrant, accounts in some degree for that enormous carnage, for I cannot give it a better name; but it will not fully solve the difficulty. We must call in to its aid the genius of our criminal law. The same observation is applicable to queen Elizabeth, in whose reign 17,600 persons shared the same fate. That portion of her father's arbitrary spirit which she inherited, could not alone have produced this effect. I cannot pretend to ascertain what waste of people we have sustained in modern reigns. Some idea may be formed of the affair by considering that in the reign of George the second the criminal laws were extended to 62 new articles. What a fertile source of depopulation! In the reign of that merciful prince, who gave back many lives which had been forfeited to the law, it swept away nearly 3,000 persons, reckoning only 30 executions in Middlesex and Surry, including London, and only one annually in each of the other fifty counties: such a number, especially as the far greater part of them are very young people, must be a considerable loss to society, as well with respect to population, as to the labour which they might themselves have been made to perform. Other European states have the policy to punish crimes, and yet render the criminals useful to the community. Ought not we to imitate their prudence? Their example should at least incite us to make inquiry,

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When the proper lights are once acquired, more may perhaps be done than any of us now expects. At any rate, we shall have the satisfaction of exerting our best endeavours for preserving the lives of his Majesty's subjects, at a time that he can very ill spare them. I move, Sir, "That a Committee be appointed, to consider of so much of the Criminal Laws as relate to Capital Offences; and to report the same, with their opinion thereupon, to the House."

A Committee was appointed accordingly.

On the 6th of May, 1771, sir Charles Bunbury reported to the House, that the said Committee had came to the following Resolutions:

1. "That it is the opinion of this Committee, That so much of an Act made in the 7th of Henry 7, intituled, 'The penalty of a captain or soldier retained to serve the king in his intended wars not doing their duty,' as subjects offenders to death, be repealed.

2. "That so much of an Act, made in the 1st and 2nd of Philip and Mary, intituled, 'An Act against certain persons calling themselves Egyptians,' as subjects offenders to death, be repealed.

3. "That so much of an Act, made in the 5th of queen Elizabeth, intituled, 'An Act for further punishment of vagabonds calling themselves Egyptians,' as subjects offenders to death, be repealed.

4. "That so much of an Act, made in the 5th of queen Elizabeth, intituled, 'An Act to retain her majesty's subjects in their due obedience,' as subjects offenders to death, be repealed."

The Report was ordered to be taken into consideration on May 20, but before that day parliament was prorogued.

DEBATE IN THE HOUSE OF COMMONS ON THE POWER OF THE ATTORNEY GENERAL TO FILE INFORMATIONS EX-OFFICIO.*] November 27.

Capt. *Constantine Phipps* rose and said:

Sir; no one can deny that a general cry has gone abroad against the exercise of the power lodged in the hands of the Attorney General to file informations ex-officio. The country, from one extremity to the other, rings with outcries for its extirpation. And no wonder, Sir, for it is but a cousin-german of the Star-chamber. Its very nature and constitution is arbitrary, and incompatible with the spirit of a free government. The Attorney General is an officer removeable at pleasure. As a minister's breath creates, so a minister's breath annihilates him. A mere drudge of the day, he is tossed, and buffeted, and kicked about by the ministry, like a shuttlecock or foot-ball. They give the magical word, and presto pass; he flies upon their errand with the dexterity and legerdemain of a juggler's cups and balls. When they have stamped any measure with their almighty fiat, he must not say nay. His negative would be impiety. They would immediately hurl him down from his airy height, like a fallen angel. Farewel to all hopes of three thousand a year in pension! farewel to the office of Chief Justice in Eyre! adieu to the King's-bench! adieu to the Chancellorship! Sir, can we expect from men, agitated by such hopes and such fears, that unbiassed integrity, that stubborn, that unshaken virtue, which could alone do justice to the public in so slippery a situation? Experience forbids us to entertain such extravagant notions of human perfection. The gentlemen of the long robe, destitute of passions and other failings as they are, will not pretend to such high strains of sanctity. If they should, I fear the public will not give them much credit. Men will ever be suspicious of those whom they see putting their fellow-subjects to enormous expences, without giving them the least chance of avoiding it by a previous exculpation. The Attorney General, of his own mere motion, or by the mandate of a Secretary of State, christens any paper by what name he pleases. He calls it an infamous, a seditious, or treasonable libel. After this arbitrary construction, this discretionary name, he files an information, and commences a prosecution, without hearing any evidence, without examining a single witness, without receiving any other affidavit, without making the least previous enquiry. Sir, can any thing savour more of tyranny and despotism? If the culprit should, in the course of the trial, be able to justify his conduct, or if the Attorney General, despairing of success, should enter a *noli pros*

* The above important Debate is taken from a pamphlet entitled "*Vox Senatûs*," the speeches in which were reported by Mr. William Woodfall. See Woodfall's edition of the Letters of Junius, vol. 1, p. 19. London, 1812. Another Report of this Debate appeared in the Gentleman's Magazine, which it has been thought proper to preserve in this Work.

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sequi, yet he may be ruined by the expence. So that any person obnoxious to a minister or Attorney General, or to a minister or Attorney General's pimp or footman, may, by this process, be unjustly oppressed.

Sir; this picture I do not mean to apply to the present times, because I do not complain of them. They may be bad, there may be malversation, there may be oppression. But as they have not reached me through any authentic channel, I do not intend to lay the least stress upon vague report and uncertain hearsay. I wish to have it understood, that I rest my present motion on its own internal merit and rectitude, unaided by any collateral support from any spirit of resentment or redress, which might arise from a view of the actual state of the office in question. Those who have lately occupied that post, may, for aught I know, have been pure and immaculate. I have not the most distant view of censuring their conduct. Nor is it my design to treat the office as illegal. I will allow that it has the sanction of the common law, and of antiquity. But, while I make this concession to the sages of the long robe, I must deny that it is constitutional; because, in a free government nothing deserves that name if it be contrary to its genius and spirit. Its being a part of the common law is no argument in its favour, since the common as well as the statute law may err, both being but the work of fallible men.

Now, Sir, this power is evidently contrary to the spirit of the constitution, because it is contrary to the spirit of liberty, which admits not of arbitrary discretion in the disposal of men's persons or properties. Yet this is the case in the first stage of the process instituted by the Attorney General. He is absolute master of the persons and properties of the most innocent men in the kingdom. He may file an information against him, he may get him apprehended, he may ruin him with costs. Can any institution be more diametrically opposite to the whole system of our jurisprudence? Have we every where else erected mounds and bulwarks against the encroachments of tyranny, with no other design but to leave here a free opening for the inroads of the monster? But what occasion, you will say, is there for stopping up the gap in such blessed times as these, in this golden reign, when law and justice have kissed each other! Your objection is the very reason that urges me to strike the iron while it is hot, and to place such a precious possession as liberty beyond the reach of danger. It is not every day that we can expect such a wise and patriotic ministry as the present. Let us improve the opportunity, and provide against future and possible mischief. Every one knows that in past times the power in question was greatly abused. So many instances of this truth are upon record that it would be tedious, and even nauseous to enumerate all. I will, however, mention two or three which have happened since the reign of Edward 3; for though I have made the most diligent enquiry, I have not been able to find any earlier than that period; a circumstance which seems to give but little countenance to the antiquity of this power. The first instance is that of a poor bookseller, who was in a state of insanity, and yet was fined 100*l.* for something called a libel, published by his servant without his privity or consent. The second is that of an Attorney General called to the bar of this House for an improper exercise of his authority. He pleaded, very properly, as an excuse, that he received the information literally as it stood, from the secretary of state, and that he acted only as a passive instrument in the execution of his office. It would be idle to produce the many examples which occur in the reigns of the Stuarts; they are too numerous and too well known to be specified. Let us come nearer to our own age. I have in my pocket, the affidavit of a man who declares that he was sick in bed, when his servants inserted in his newspaper, the obnoxious words for which he was prosecuted and imprisoned by the contrivance of an Attorney General. What more is requisite to induce us to cut off this rotten limb of the constitution? If men have been bad (and that they have, experience cries aloud) they may be bad again. Unlimited power is not to be trusted in any hands; it will debauch the most generous nature, and involve its own destruction in the general ruin. This truth, as well as the reasonableness of the motion, appears so evident to me, that I cannot doubt of the general concurrence of all honest and conscientious men. That they may be fully masters of the subject, I beg that you will desire the Clerk to read the Act made in the 4th and 5th of William and queen Mary, intituled, 'An Act to prevent malicious Informations in the Court of King's-bench,

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and for the more easy reversal of outlawries in the same court.' And the same being read accordingly; the hon. gentleman moved, "That leave be given to bring in a Bill to explain, amend, and render more effectual the said Act."

Mr. *Welbore Ellis:*

Sir; I look upon our political constitution, and upon the human body, as somewhat akin. If you tamper too freely with either, you endanger its health. Experience teaches us, that the human frame is gradually impaired and wasted by the frequent use of medicines, and a too anxious care of life. It has no greater enemies than the laboratory and the chemist's shop. What quacks, apothecaries, and young practitioners are to the body; innovators, meddlers, and youthful patriots, are to the constitution. Pills, boluses, and electuaries, prove not more injurious to the one, than motions, bills, and resolutions of amendment do to the other. A certain latitude of regimen is necessary for both, and if you leave nothing to chance, and to their own natural strength, you will spoil them by your excessive refinement. A speculative politician, fresh from the schools, differs widely from the practical statesman, whom experience has rendered sage. The former, carried away with every wind of new doctrine, fancies that he sees improvements in shadows and chimeras, and with a rash, untutored hand, overturns the venerable establishments of antiquity, in order to make room for his own inventions. The latter, sensible of the great reverence which men entertain for the monuments of their ancestors, will be cautious of offering them any violence, lest he should be suspected of impiety, and expose his country to those convulsions which so frequently attend innovations. It is not every well-meaning man that is fit to undertake such a work. Mankind are so wedded to ancient practices, that any alteration in an essential point requires great delicacy. Some think that no juncture is proper for such an operation, but a time of public disorder and confusion, when every thing is unhinged and loosened from its natural holdings. I am inclined to their opinion. At least I cannot think this the proper moment for such a change in the constitution.

Sir, the hon. member allows the Attorney General's power of filing official informations to have the sanction of antiquity. Why, then, should it now be abolished? Is it because there is no further occasion for the office? Is it because we are now become perfectly righteous, perfect enemies to all calumny, to all scandal and abuse? Is it because no more libels, no more lampoons are published, and because our political writers are religious observers of decency, candour, and truth? No. I believe the mover of the present question will not be hardy enough to hold this language. He must, with the moderate of all parties, confess, that this power, if ever necessary, is peculiarly indispensable at this juncture. For when did ever an envomed scurrility rage with such lawless fury? When was every thing venerable and sacred ever treated with such indignity? When did majesty, when did parliament, ever sustain such rude, such ruffian attacks? Nothing now is secure from the virulence of the press. Its black gall overflows and poisons the fairest flowers in the nation. Youth is not safe in its innocence, nor beauty in its defenceless condition. Dignity and station are vilified and traduced. It has become a kind of reproach to be great and noble. The grey hairs of the most experienced, the most approved counsellor, are ridiculed: his wisdom and gravity are but dotage and foolishness. Gallantry and heroism no longer fix a soldier's character. It signifies nothing to have planned, to have fought, to have conquered. You must be of a particular faction to be lauded by the imps of the press. You must belong to the Bill of Rights, to the club at Appleby's, or at the Prince of Orange, to have the voice of the people, which is the voice of God. There is no salvation for any man who is not of that sect, who is beyond the pale of that church. He is interdicted, excommunicated, and damned. No fire, no water for him. He becomes *anathema maranatha* throughout the land.

Sir, this is no overcharged picture, no caricature, no monstrous representation. The whole is drawn and coloured by the pencil of truth. When this concession must be extorted from the most inveterate prejudice, can any prudent, any candid, any honest man advise this House to annul, or even abridge that authority, which is the chief, if not the only effectual check, that the constitution has provided against this dangerous abuse? No. It is impossible. We cannot be too well armed, we cannot have too many guards against these secret assassins, who indiscriminately stab

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in the dark, and go about seeking whom they may devour. I say devour. For what are they but cannibals, that make a hungry meal of mangled characters and murdered reputations? They live upon you, they live upon me, they live upon every man, whom their malignity can traduce. Ought not every man then, who has any reputation to save, to join in crushing them, and instead of removing any of our present defences, to add new bulwarks against this invasion?

Sir, if it had been shewn that any unwarrantable use had been lately made of the authority in question, there would have been some ground for the present motion. But I do not find this to be the case. The hon. mover has made no such charge, and from his seeming averseness to that discussion, would lead me to conclude that no malversation of this nature exists. Why, then, should we, when not urged by the spur of necessity, make such a material change in our ancient constitution? The monarchy has now subsisted for many ages, and grown up to this magnitude, with this power interwoven with the system of its laws. Had it been any unnatural excrescence or wen, it would have been long ago cut off. Let us, then, be contented with the scheme of government erected by our wise ancestors, and deliver it unaltered to our posterity.

To say, Sir, that because this power has been abused, it may be abused again, is no sufficient ground for innovation. For where is the institution, however good and laudable, that has not been abused? Juries, the corner stone of our constitution, have abused their authority. The liberty of the press, another palladium of our rights, has been abused. Why, then, does not the hon. gentleman move for the abolition of juries, and the extinction of the liberty of the press? He may do it with equal propriety. The same argument will serve his purpose. Accordingly, if he carries his point to day, I expect that he will pursue this plan. Nay, I expect that he will move for a Bill to exterminate the Christian religion. For what has been more abused? Nothing, but the liberty of making motions, and proposing bills for the amendment of the constitution.

Mr. *Cornwall:*

Sir; though I am far from thinking, that we ought never to make any alteration in the constitution, but when we are pressed by the spur of necessity; yet I cannot help saying, that such a step is much more rational, when we have necessity for an additional motive. I am, therefore, surprised that the hon. proposer of this question did not take this as the original ground, as the Archimedean prop, on which he might rest those mighty powers, that would be necessary to move so enormous a weight as the ministry. Had he traced out any late malversation, either in the Attorney General's actual exercise of this power, or in the conduct of the courts of justice, after any affair had been laid before them by that officer, he would have given the House a very cogent reason for adopting his proposition. I do not say that there are any misdemeanors in his department. I have no authentic intelligence, upon which I can ground an accusation. Nor is it my desire to see the thing proved. My prayer is to see the contrary demonstrated. I belong myself to the profession, and therefore could wish it free from every appearance of spot or blemish. The administration of justice, should, like Cæsar's wife, be clear of all colour of suspicion; it should be chaste, and pure as the icicle that hangs upon Dian's temple.

Now, Sir, will any man tell me, that this the case at the present juncture? Are there no suspicions, no whispers, no rumours of mal-administration in our courts of justice? Is it the general belief that every thing is sound and untainted on the benches at Westminster? I protest I do not know that these charges have any just foundation; but if they have, I am sure the criminals ought to be punished. At any rate, the rumours, whether true or false, should provoke us to an enquiry, that the public may be satisfied either by the acquittal or condemnation of the culprits. For in such an essential point, the doubts and jealousies of the people are not to be neglected. The consequences may be terrible. Recollect, Sir, the history of Richard 2, and dread the fury of the populace. The articles of impeachment, I mean in conversation, news-papers, and pamphlets, for at present I have no better authority to quote, in these, I say, the articles of impeachment are neither light nor trivial. They are fundamental points, which touch the very essence of our constitution, and which as they stand or fall, involve the rise or fall of our liberties. Do you want them specified? As far as my memory will serve, I am ready to gratify your cu-

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riosity, or rather once more to ring in your ears the same peal, with which they have been so frequently deafened.

I have heard, then, and read, that juries have been vilified from the bench, and represented as an institution not to be trusted. Is this the part of a judge that would be deemed friendly to liberty, or that would acquire the confidence of the public? It is not that I would present it as a criminal act in any person to give his opinion of any part of our political establishment: all I mean is to mark the genius of the man, and to shew how weak or wicked he must have been to calumniate in such a place, the noblest palladium of liberty and property, that the wit of man has been yet able to invent.

I have heard and read, that a jury was taught in a solemn and deliberate manner by a judge, to pay no respect to the quality or fortune of the plaintiff, in assessing damages, but to consider the affair only in a moral light as a trial between A and B, and to make no greater reparation to the first lord in the land, than to the lowest mechanic. Is this sound doctrine? I believe not. However well it may do in a theocracy, or before that Judge who is no respecter of persons, it will not answer in human society. While man is man, there must be a distinction of persons. Even arbitrary governments cannot subsist without it. The maxim, therefore, being founded on an equality among the citizens, which does not exist, cannot be defended on the principles of law or reason.

I have heard and read, that a judge rejected a juryman, without any challenge from the parties, who alone enjoy that right by law. If this be fact, can there be a greater enormity, a more crying sin, in a guardian of our constitution? For my own part, I cannot conceive an act, that would more richly deserve impeachment; for it is a bare-faced, palpable packing of a jury, and packing of the worst kind, as it is the work of the person, whose peculiar business it is, to prevent all such iniquitous practices.

But, Sir, this is not all. I have heard and read, that a judge has on all occasions, made it a maxim to inform the jury that they were only judges of the fact, not of the law; and that it did not belong to them to judge of the malignity or innocence of the culprit's intentions. I know not what you may think of these tenets; to me they appear as absurd and monstrous as any that ever I heard. For if the jurors do not judge of the malignity or innocence of the intention, I should be glad to know of what they judge. Can any of you tell me? Of the fact? The fact, independant of the intention, is neither blameable nor praiseworthy, as appears evidently from the case of manslaughter, in which, if the fact only were to be considered, the jury must bring in the defendant guilty. Since the jury is here to take the intention into the account, why should they not follow the same rule in other cases? I believe the keenest casuist, or splitter of cases, in Westminster-hall, would be gravelled to tell me; and I will be bold enough to say that the jury, that acquits or condemns without regarding the intention, acquits or condemns without any grounds at all. Sir, I am not fond of appearing positive, or dogmatical; but this is so plain, so constitutional a point, that I am really astonished to find it controverted. Controverted, however, it seems to have been; and the most melancholy consequences have ensued. A jury has, I am told, been led by this refinement, and the management of a judge, to find a bookseller guilty for the act of his servant; nay, for an act which was not proved upon his servant. A pamphlet or magazine, sold by an unknown person in his shop, is deemed *prima facie*, or intuitive evidence against him, and he is accordingly condemned by the jury. Not that I reject *prima facie* evidence as insufficient. It may, perhaps, be in some cases quite conclusive. But that can only happen where there is likewise *prima facie* evidence of the malignity of the intention. Here there was no such symptom of criminality. On the contrary, many extenuating circumstances concurred to exculpate the culprit. Yet these quirks prevailed, and misled his judges.

Need I say any more to rouse you to this enquiry? You see that I do not enter so deeply into the subject as I obviously might have done. Enough, and more than enough, has been already advanced to waken you to a sense of your duty. If you do not follow the scent upon which you are now led, I fear you will be deemed but unfaithful guardians of the flock intrusted to your care. Think not that I mean to upbraid you. No, my sole intention is to provoke you, who are the grand inquest of the nation, to enter into a discussion of this important affair. I feel in my own mind a strong conviction of the

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necessity of this step. Never did I speak more from my heart, and less from pique or prejudice. I conjure you, therefore, as you value your own honour and dignity, as you value our laws and liberties, as you seek the interest and esteem of your constituents, to undertake this important task without delay. If the scrutiny should turn out to the advantage of the suspected, I shall rejoice. But at present, neither fear nor favour nor affection, should retard our operations. Whatever we may owe to great talents or exalted stations, we owe still more to justice and to the public.

Mr. Attorney-General *De Grey:*

Sir; I do not rise so much to oppose the present motion as to justify my own conduct: for that part of the Attorney General's office, which is now the subject of debate, is never attended with much credit or satisfaction to the possessor. However cautious or tender he may be of giving offence, the people will generally lay to his charge a great portion of every ungracious act that government may be obliged to exert in support of its own authority. I am not conscious to myself of any indirect or unjustifiable practice. I have exerted my best abilities in doing justice between the crown and the subject. I have neither strained nor relaxed my power. In very ticklish times I have at least endeavoured to steer my little bark clear of all obloquy. I dare not, however, flatter myself that I have been successful. The jealousies of the people, with regard to this point, are, I fear, incurable. They will always suspect the active person. Since, then, I do not profess an entire indifference for the good opinion of my country, since I would at least be free from actual reproach, you may easily conceive that the abridgement of my power in this respect would give me no great concern. It is not that I deem this power unconstitutional, or detrimental to the state. Unconstitutional it cannot be, since it makes a part of the common law, which is as ancient as the monarchy, and forms the basis and groundwork of our liberties. It has likewise the sanction of the statute law, as appears from the Act which has been now read. All this is acknowledged by the hon. mover of the question. I am surprised, therefore, that he should undertake to unhinge the wisdom of ages, and to substitute his own imaginations for the solid and long tried constitutions of our ancestors. I do not find that he insinuates the existence of any abuses at the present juncture; an argument, in my opinion, of no little weight against any sudden and precipitate innovation. If there had been any real necessity for a reformation, I think the proposal would have come with more grace and authority from those members, whose profession and situation give them the best opportunity of knowing the real state of the case. I have several gentlemen in my eye, who, I doubt not, would have taken this step, if they had discovered any real malversation, or seen advantage in altering this part of the constitution. Does not this circumstance throw a damp upon the motion? Yes, certainly, and it is no small obstacle in the way of its success that I have this moment prosecutions in my hands undertaken at the request of this House. Will you deprive yourselves, as well as the crown, of this engine? I hardly imagine that you will think that measure advisable. How, then, will you proceed? It is not for me to direct you; but I foresee that you will be embarrassed. It is alledged that an Attorney-General, who was accused of an undue exertion of his authority, made a very proper defence by saying, that he acted only as the mere instrument of a Secretary of State. But I aver this to be no legal, no constitutional justification. The Attorney General, like every other crown officer, is responsible for his conduct, and if he acts contrary to law, he is amenable to justice.

In cases of official information he represents the grand jury, and whatever prosecution he undertakes, he undertakes it at his peril. He is not, therefore, that terrible monster he is represented. He cannot trample upon the constitution, nor set his foot upon the neck of our liberty. He can devour neither the law nor the press. Even libels dare look him in the face. I have had some little experience in this affair; and to shew you how harmless all his formidable powers are, I declare solemnly, that I have hardly been able to bring a single offender to justice. How, then, can any candid man suggest, that the Attorney General's power is dangerous to liberty, dangerous to the press, dangerous to innocence? Why, he cannot preserve the most sacred characters from the most outrageous abuse, nor procure them the least compensation, the least security for the future. But the hon. gen-

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tleman has an affidavit in his pocket, which proves, that by the contrivance of an Attorney General, a printer has been prosecuted and imprisoned for an article inserted in his news-paper by a servant, while he was sick in bed. It may be so: such an affidavit has been made. But it reached the Attorney-General at too late a period. Had it been somewhat more early, I will not say that it would not have quashed the proceedings. Nor will I now affirm that it will not produce a *noli prosequi*.

Sir, let the affair end how it will, nothing shall be done contrary to law and equity. This case shall be managed with the same reverence for the constitution that has directed the other trials. These have, I confess, been now called in question; but, in my opinion, to no purpose, because the point is not properly before the House. And, if it were, I do not apprehend that the accused would find their cause desperate. However much people may exclaim against *prima facie* evidence, the doctrine is neither novel nor absurd: it has been maintained by men of sound sense and extensive knowledge of the law. Those who would make juries judges of the law as well as of the fact, would do well to consider, whether that tenet would not introduce irremediable confusion in the law, and render judges useless.

Mr. Serjeant *Glynn*:

Sir; as I have been particularly concerned in the discussion of the question now agitated, I think myself bound in duty to the public, and to my own character, to deliver my sentiments upon the fresh subject which has been started. I must, therefore, agree with my hon. friend, who spoke last but one, in asserting, that reports injurious to our courts of justice have gone abroad, and taken deep root throughout the kingdom. They are current in the metropolis; they are current in the country. Confined neither to private conversation, nor to the public prints, magazines, and pamphlets; these suspicions and surmises have found their way into the remonstrances addressed to the throne. London and Middlesex have both complained of this point. It is, then, absurd to alledge, that they are but idle and groundless rumours, which being lightly taken up, will be as lightly laid down, and consequently unworthy of our notice. They are, on the contrary, grave and serious matters, which have made a deep and lasting impression upon the minds of the people. They have inflicted a wound, which cannot be healed but by a thorough and honest enquiry. This is the only balsam, this the only catholicon which can be applied with any prospect of success. Will you, then, refuse to try the effect of this remedy? Will you shut your ears to their complaints? You may take that part, but I fear it will not be the way to allay the ferment, of whose existence you must all be sensible, however much some of you may affect not to know or to despise it.

But you ask what are these rumours, these reports, which have created such jealousies and anxieties. Are they of sufficient magnitude and importance to call for the attention of this respectable assembly? Respectable as you are, I cannot think that you will at all be degraded by taking into consideration a subject which has engaged, and does still engage, the thoughts of all London and Middlesex. Were there no other part of the realm to be gratified by this enquiry, methinks it would be no mark of imprudence in you to grant them this indulgence. They are neither a small nor an inconsiderable part of his Majesty's subjects; and it will be no little accession of strength to the ministers to have them for their friends. Can they hope for this desirable event, except they embrace the proposed measure? No. They and the whole people of England will hold them as enemies, determined enemies to their laws and liberties. For, let me tell you, the points for which they contend touch the very essence of the constitution, and must be as dear to every true Englishman as the blood which warms his veins. Nothing will, I am persuaded, separate them but the power that tears asunder his heart strings. Do you imagine that Englishmen, while they are a people, will allow the constitutional power of juries to be retrenched? No. They know too well that it is the best palladium of their liberties, and they will never part with it but with their lives. Yet this is the sacred right which unhallowed hands are accused of having endeavoured to ravish from them. Rules of evidence, and rules of law, are said to have been laid down by judges which sap the foundations of juries, and which, if tolerated, will render them, in the hands of a temporizing casuistical expounder of the laws, mere engines of oppression.

Sir, we are informed that a judge has laid

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it down as a fixed, established doctrine in law, that a master is in criminal cases criminally answerable for the misdemeanors of his servant. If a book or a pamphlet, for example, is sold in a bookseller's shop, and without the knowledge of the master, we are taught by a doctor of the law, that the master is responsible and punishable for this act. It would be idle to enter largely into the merits of this case at the present time. Not to mention that I have been prevented by the hon. gentleman who started this proposition, and who held it forth in a strong but not in an overcharged light, I am prevented by the self-evidence of the case. The monstrous absurdity, the glaring iniquity of the doctrine, is so plain, so palpable, that it may be safely left to the common sense, to the feelings and hearts of mankind. They will judge, they will determine without any sophistry, without any jesuitical refinement, and like an upright, unbiassed jury, will bring in this maxim *guilty*.

But false rules of evidence are not only countenanced. False rules of law are said to be fostered and cherished with the same pious care. Juries are told that they are only competent judges of the fact, not of the law. For instance, if a man charged with publishing a libel is brought before a jury, they are not to enquire with what intention he published. Their sole province is to determine whether he actually published, and whether the alledged libellous expressions are to be applied, as they are in the indictment. If they find these two points proved and ascertained, they must bring in the defendant guilty, and leave to the judge the construction of the expressions, and the malice or innocence of the intention. Now, Sir, I am at a loss to determine whence this doctrine is derived. I am sure it is not to be found in any code of natural law. The human heart revolts at it; as criminality must for ever depend upon the intention. This is so clear a case, that I will not disgust the House with any farther explanation. If guiltiness, then, depends on the intention, what do the jurors find guilty, if they do not judge of the intention? The publication of a certain quantity of paper and print? But there is no guilt in publishing and printing considered merely in that light. It is the intention alone, that constitutes the essence of guilt; and if the jurors do not judge of that, they judge of nothing.

Thus, then, stands the law of nature. Let us now see how the law of England stands. Is it contrary to the natural code? contrary to that law which the Author of nature engraved upon the table of every man's heart? God forbid!—we are not in such a distressful situation. The law of England is consonant to the purest principles of rectitude. It is noble, uniform, consistent, and disavows this modern innovation. Modern I may call it, since I am at a loss to find a single precedent, by which it is authorised. If a precedent should be found, I will take upon me to say, that it is not a good one, and that I will on a proper occasion prove it not to be law. Thus much, Sir, I thought proper to say of the reports which prevail, and of the necessity of adopting the proposed enquiry. The delicacy of my situation prevents me from asserting any thing from my own knowledge. As to the motion for amending the act before you, I give it my hearty concurrence.

Captain *Constantine Phipps*:

Sir; having a high opinion of the integrity and patriotism of the gentlemen of the long robe, I waited with patience for this motion from them. Knowing that they owed this act of justice to their country, I little imagined that they would have failed in such an essential duty. I could not persuade myself, that the general opinion of their backwardness to improve the constitution, was well founded, and that they were more ready to fall down before the golden image which Nebuchadnezzar had set up, than to deserve well of the public. Unwilling to swallow any vulgar error, I determined with myself to entertain more liberal notions of the profession, and not to involve a whole class of men in the same indiscriminate censure. Nor do I yet abjure these charitable sentiments. I have some gentlemen in my eye, whose public virtue will not allow me to pass so hard a sentence. Yet I must say, that I thought it time for my patience to be at an end, when that of the nation was worn out. For it is a fundamental maxim with me, that a representative ought to echo the voice of his constituents. Indeed, the case will be altered, if in the redress of every grievance a member is to look up for instructions to another member, who assumes airs of sapience and recondite erudition from a full-bottomed wig. I should be ashamed to sit here as the representative of a respectable body of Englishmen, if I were to learn my duty of another. It is not that I refuse to profit by another's greater

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knowledge or experience. Such arrogance is far from my thoughts. All I mean to insinuate is, that in grand constitutional points, it is disgraceful for one member of this House to need instruction from another. In these, we ought all to be well grounded before we presume to become candidates; because, without this knowledge, we shall be but spurious and nominal representatives, mere tools in the hands of talkative knaves, whose oily tongues may soothe us into disgrace and ruin.

Now, Sir, I should be glad to know, what there is abstruse, or difficult, in this question, that it may not be fully comprehended by the meanest capacity? I should be glad to know why the casuists of Westminster-hall should pretend to be greater masters of such a plain case, than those who have never eaten commons at the Temple? I hope they will not assert that they are the only men who understand reasoning and argumentation. And I am sure, there is but a small share of either requisite for discerning the necessity of this motion. It is obvious to the simplest man in the kingdom; and indeed the whole kingdom not only sees, but feels the necessity of applying some remedy to so great an evil. For who can be so dull as not to perceive that no individual, much less an officer of the crown, ought to be indulged with any power uncircumscribed by law? For, though we should suppose him responsible for his actions, and amenable to justice, it is evident that, as he generally acts under the authority, and by the consent and advice of the ministers, it will be no easy matter to bring him to an account. At least, the injured parties will find it beyond the reach of their power or purse. This House is the only resource, the only check that remains; and, God knows, that in these cases it is slow enough in its operations! In our days it is so slowly, and so seldom moved to an enquiry, that the remedy may in most circumstances be well deemed none. So that the people have properly no security against the abuse of the discretionary power lodged in the hands of the Attorney General. Can it, then, be deemed presumption in any man, however young or inexperienced, to propose the removal of such a great evil? I cannot think it. Here knowledge and ability are not so necessary as honesty and integrity; qualities in which I do not see why I should yield to any limb of the law, however long he may have received fees for defending right and wrong.

Mr. Solicitor General *Thurlow*:

Sir; however much a representative may be bound to express the voice of his constituents, I cannot greatly approve of that patriotism which prompts any member to adopt every popular rumour, and to make that rumour his own. We ought to make a discreet selection, to distinguish between truth and falsehood, and not to swallow every vulgar prejudice. It is for this reason that I cannot greatly applaud those oblique reflections, which in imitation of pamphleteers and news-mongers, some hon. members seem so fond of casting on this House. Such strokes, when reported abroad, may be popular. They may serve as stilts to raise the authors up to the notice of the mob; but I am persuaded that they will not add much to their weight in this House. The artifice is too gross to deceive. For where, Sir, is the propriety of charging this House with dilatoriness in exerting its power of controul over the Attorney General, when that officer is not accused of the least abuse of his authority. I believe there is no lawyer, nor any other sensible person within these walls, who will not allow that all the prosecutions lately carried on by the Attorney General, were extremely proper, if not necessary. If he had not filed informations, he would not have done his duty. Why, then, should we, when no real danger, no late encroachment presses, sally forth, like a band of Quixotes, to attack this windmill of a giant, this imaginary magician, who keeps none of our rights, none of our privileges, under the power of his enchantments? Not a single wight, not a single damsel, has he injured. They all walk at large, aye, more at large, I suspect, than they ought. Our booksellers and printers have no reason to complain of being held in trammels. They are allowed every reasonable indulgence, and I think they profit by it. They carry it to its utmost limits. Shall we, then, extend their province? Shall we give licentiousness an ampler range? Methinks such a proposal is made at this time with a very bad grace; and I believe there are few, who had previous notice of this motion, that did not imagine that it was made rather for extending than contracting the Attorney General's jurisdiction.

For my own part, Sir, I cannot help considering the project as a crazy conceit,

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solely intended for gaining a little popularity; for men, however hopeless, will "spread the thin oar, and catch the driving gale," the popular breeze, whose murmur is so flattering and delightful to certain ears. But the wisdom and gravity of this House is not to be misled by such feeble engines; it must perceive, that the power at present lodged in the Attorney General is necessary, as well for speedily punishing as preventing daring libels. If no other process is left, but the common one of bringing the affair before a grand jury, the delinquent may, in the mean while, escape and mock justice. This is sometimes the case, now that the power of filing informations is in its full vigour. How much more will it be so when no such power exists? No offender can be brought to justice. What is the consequence? The licentiousness of the press will increase. Crimes will multiply. Instead of one whisperer, we shall have a hundred. Nothing will be published but libels and lampoons. The press will teem with scurrility, abuse and falsehood. The minds of the people will be poisoned with vile aspersions, and misled by scandalous misrepresentations. The many-headed beast will swallow the poison, and the land will consequently be one scene of anarchy and confusion.

But, replies my antagonist, are there not just grounds for much of this obloquy, of which you complain? Are not the courts of justice deservedly accused? Are not the expounders of the law guilty of propagating unsound doctrines? Are not false rules of evidence, and false rules of law, laid down by the judges for the direction of juries? I answer in the negative. These charges are not founded on truth. *Prima facie*, or intuitive evidence, with which some gentlemen are pleased to quarrel, is very good evidence, where no other evidence can be obtained. It has the sanction of the greatest and most sober judges that this country ever produced, as might be proved by an induction of particulars too tedious to be now enumerated, since the point is not regularly before the House. But precedent alone, which, by the bye, would be sufficient to justify our present judges, does not declare in its favour; it is also countenanced, nay, established by the law of the land, and the law of nature. For where the *prima facie* evidence fixes guilt, it cannot be removed but by contrary evidence. In civil cases the master is confessedly answerable for the faults of his servants. How comes he in criminal cases not to be subject to the same rule? he is subject to it when the *prima facie* evidence loads him with guilt, and when he cannot destroy its force by contrary evidence. This was not done in the trial to which this charge alludes; it is therefore groundless and scandalous, if not mean and malicious; and the culprit was justly condemned, and will be justly punished.

Sir, the other charge is equally groundless and absurd. The construction of libels belongs by law and precedent to the judge, not to the jury; because it is a point of law of which they are not qualified to judge. If any other rule prevailed, if the matter was left to the jury, there would be nothing fixed and permanent in the law. It would not only vary in different counties and cities, according to their different interests and passions, but also the minds of the same individuals, as they should happen at different times to be agitated by different humours and caprices. God forbid that the laws of England should ever be reduced to this uncertainty! all our dictionaries of decisions, all our reports, and Coke upon Littleton, itself, would then be useless. Our young students, instead of coming to learn the law in the Temple, and in Westminster-hall, would be obliged to seek it in the wisdom of petty juries, country assizes, and untutored mechanics. Adieu to precision, adieu to consistency, adieu to decorum: All would be confusion, contradiction, and absurdity. The law would, like Joseph's coat, become nothing but a ridiculous patchwork of many shreds and many colours; a mere sick man's dream, without coherence, without order; a wild chaos of jarring and heterogeneous principles, which would deviate farther and farther from harmony. Yet the prevention of this state is the crime with which our judges are charged! O tempora! O mores! To what are we at last come? If the law was perverted, if justice was not done, why did not the complainants institute a process for fresh trials? They would have done it if there had been real grounds of dissatisfaction.

Indeed, if a juryman has been rejected without a challenge from the parties, there is room for clamour. Such an act is highly criminal. No man is able, no honest man would wish to defend it. But let us not be rash in passing sentence. Let the fact be well authenticated before we condemn.

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Rumour is not a sufficient ground for proceeding. No such circumstance has happened. The great judge who is suspected was incapable of such an action. For these reasons I must give my negative both to the motion and the enquiry.

Mr. *Wedderburn:*

Sir; it would be idle to enter at this time into a full discussion of the collateral subject of debate, which has been started. It is not regularly before the House; and if it were, I apprehend we must have firmer ground to go upon than rumours and pamphlets, and news-papers. Suspicion, when pushed to an enquiry, is a species of condemnation; and the character of our judges should indeed be, like the chastity of Cæsar's wife, free from every shadow of suspicion. Shall we then, without any direct charge, without any fixed object before us, engage precipitately in this business, and give currency to vague reports, to the aspersions of low malice, to the lie of the day? I have too good an opinion of the wisdom and gravity of this House to suppose it capable of taking such a rash step.

Sir, though London and Middlesex have been induced to lend an ear to these calumnious reports, must we adopt their folly? No man has a greater respect than I for these two great bodies of men; yet, in this point, I must say that they have been too credulous. They have been misled by those who ought to have known better, by those who ought to have assured themselves that law was on their side, before they advised these complaints to be inserted in the Remonstrance. The conduct of the judges. I believe, nay, I know to be irreproachable in the cases in question. What foundation, then, was there for accusing them in the Remonstrance? Mere hear-say and report; causes too light and shadowy to set us in motion. This is not a time to expose ourselves, by attacking imaginary grievances, when so many real grounds for complaint exist. When so much game is before us, we ought not to run in pursuit of vermin. I fear the passions of some men are too much interested to suffer them to act with the temper and discretion which are necessary for handling this question; and it is not the violence of prejudice and discontent that will influence the generality of this House. The enquiry, therefore, seems to me to be, on its present footing, totally inadmissible.

Sir, the motion touching the Attorney General's power of filing official informations, I see in a quite different light; for though I must confess, that necessity has been the mother of the most essential improvements in the constitution, yet I must say, that times of peace and tranquillity seem the most proper for any alteration, because the minds of men lying then under no peculiar bias, seem likely to act with more deliberation and judgement. The non-existence, therefore, of any abuse at present, is no argument against the proposed amendment. The less injury we feel, the more wisdom and discretion we are likely to discover in our proceedings. It cannot be denied that the alteration of this law will be attended with possible, and even probable advantages; and the possibility, much more the probability of advantage, is a sufficient ground for change. If our ancestors had been so tenacious of old establishments, as never to have made trial of a new institution, what would have become of our liberties? But, in fact, this power has not the sanction of a very high antiquity. Our lawyers trace it up to Edward the 3rd, and found it on the words "matter of record," in one of his statutes. Now, supposing their interpretation to be just, this æra of its commencement is modern to the commencement of the monarchy. Let us, then, allow it to have been common law since that period, yet we need not, from any superstitious reverence for the wisdom of our ancestors, be afraid of innovation. When reason and the principles of the constitution dictate reformation, must we be deterred by mere names? Different times require different regulations and institutions. What might have been proper 400 years ago, may be now quite absurd and pernicious. Not to mention what has been already sufficiently exposed, the unconstitutional nature of unlimited and discretionary power, the method of filing informations is more expensive and oppressive, than the common way of bringing the affair before a grand jury, who examine witnesses, and prevent many enormous expences, by rejecting the Bill, if it seems to be founded on injustice, malice, or oppression. The same process holds, before an information is granted in the King's-bench. The case is argued in open court, and before the judges of the land, and the culprit is allowed to show why an information should not be filed. If he can there produce any extenuating cir-

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cumstances, they have their due weight. These things are not done in a corner; all the nation may and will judge for itself, and the judges, from a regard to their dignity and character, will act with gravity and circumspection. Neither Say's nor Almon's affidavits would there be neglected. Why is the Attorney General's power not circumscribed within the same limits? Ought he to be indulged with more authority than our judges? Indeed, if the institution answered the end intended, it would be one, though but a weak argument in its favour. But that is not the case. The end is the speedy punishment of libellers. Does it attain this end? No; before the Attorney General goes through half the necessary process, he might have got the delinquent tried, found guilty, and condemned before the common juries. Need I say more to induce you either to abolish or to modify this power? I will not suppose you so void of understanding and judgment, when I assure you, that no lawyer will have the face to deny the truth of my last allegation.

Mr. *Herbert Mackworth:*

Sir; as I happened to sit as a juryman upon the trial of Almon, I think it my duty to rise up, in order to rectify some mistakes, into which the public in general, as well as some gentlemen here present, have fallen. Various news-papers and pamphlets propagated at that time a belief that we had been misled by the instructions of the judges, in our opinion of the criminality of Junius's Letter to the King. Nothing can be a greater misrepresentation. In this point we perfectly coincided with the judge in our sentiments. Whatever might have been the sense of the juries at Guildhall, we were unanimous in thinking the letter in question an atrocious and highly criminal libel. There was not a single person among us that murmured the least doubt or hesitation, or suspected that the author and publishers did not merit severe and exemplary punishment. These articles were never with us a subject of discussion. But whether Almon was culpable for a crime, which chiefly affected his servant, was a matter of long and anxious discussion. Right or wrong, we were in that point influenced by the instructions of the judge.

Sir, I had my doubts whether the *prima facie* evidence was a conclusive argument of guilt in the defendant. I applied to the judge for a solution of my difficulty. He gave it with that clearness and precision in which he has hardly his equal. He informed me that the law always inferred guilt in the master from the *prima facie* evidence, where there was no other contrary evidence to destroy its force. This was the case in the instance before the jury. No contrary evidence had appeared, no alleviating oaths, no exculpatory affidavits. Whether it was that the authors of the affidavits, which have since been made, were averse to a cross examination, or to an appearance in court, or whatever was the cause, no attempt was made to invalidate the *prima facie* evidence. It remained unshaken, unimpeached. The necessary consequence was, that we were obliged to follow the law, and to give our verdict accordingly. For the conscience of a juror, if he has any conscience, binds him no less to the observance of the law than of equity. Though I had my doubts about the malignity of the publisher's intention, I did not think these doubts authorised me to set aside a certain principle of law, and to acquit the defendant upon surmise, when he stood condemned by a positive decision of our jurisprudence.

It is not that I do not want to see this point more clearly ascertained, and more generally understood than it has hitherto been. Every thing relating to the power and jurisdiction of juries ought to be established on the firmest and surest foundations. If possible, nothing should be obscure, uncertain, or perplexed, in their province. For this reason, I could wish, that this rule of evidence, as well as the rule of law, which, in cases of libels, leaves the interpretation, or the innocence, or malignity of the intention, to the judge, may be maturely considered by this House.

If they should turn out to be law, we shall be thus enabled to quiet the minds of the people, and to restore their confidence in the courts of justice. I am persuaded in my own mind that this will be the case. Yet, however upright, however irreproachable, our judges may have been, I should not dislike to see these laws altered, if they can be altered for the better. They have alarmed the people, who look upon them as innovations, as encroachments upon the power of juries. It is our business to examine whether their alarm is well founded, and if well founded, what remedy can be applied. The proposed inquiry, therefore, seems just and

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reasonable, whether the judges are culpable or not? Our ancestors frequently adopted such measures. Being the grand inquest of the nation, they justly esteemed it their duty to trace out every grievance, and to procure redress. Ought not we to follow their example, when we are called upon by the voice of the nation? We must follow it, except we chuse to forget whom we represent, and whose servants we are.

As to the motion, I think it extremely proper, whether you chuse to ground it on the proposed enquiry, or to leave it on its original bottom. The arguments already advanced seem to me conclusive in its favour.

Mr. *Edmund Burke:*

Sir; the objects now under our consideration, seem to me to be of great importance, and to deserve something more than a silent vote. I will therefore, with the leave of the House, endeavour to throw some light on the subject.

Several gentlemen, Sir, have dwelt with a kind of secret complacency and satisfaction on the high antiquity of the Attorney General's power of filing official informations. They have set before our eyes in every engaging light, the respect and reverence which it has derived from the savoury mouldiness and the venerable rust of ages. The monarchy has subsisted and flourished most during the existence of this power. Why, then, quarrel with it at the present juncture, when it is likely to prove most beneficial? I will not say that there is no weight in this reasoning, because I will not say that there is any question without its difficulties. Most questions have, like Janus, two faces; and if you view only one of them, you may, with a little management, make your favourite side assume a pretty fair and comely appearance. Something of this legerdemain is observable on the present occasion. While the opposers of the motion celebrate the flourishing state of the monarchy, during the existence of this power, they forget to prove to us, that it owed that happiness to the Attorney General.

Sir, it is the fate of narrow minds, and confused heads, to mistake one cause for another, and to make nature as great a chaos as their own brain. Were it necessary, we might easily trace the flourishing state of the monarchy up to other causes, and demonstrate by facts, that this institution retarded rather than accelerated its growth: but there is no occasion for fetching such a tedious compass; arguments enough have been already advanced to prove it unconstitutional and incompatible with liberty. What can be a clearer evidence of its having never benefited the kingdom? The same arguments which prove it now prejudicial, prove it prejudicial ever since its commencement. But what if it should be shewn not to have the sanction of antiquity? Sir, I have enquired among others into this point; but fortune has not been favourable to my diligence. I have not been able to trace it into the darkness and obscurity of remote ages: nay, I have found it to be modern, and as it were of yesterday. Far from fixing it as high up as Edward the third, I have been obliged to come much farther down from the source. The words "matter of record," which have been quoted, did not mean official informations. Bracton, who is allowed by all to be a good authority, mentions "actions popular," which, I apprehend, were founded on these expressions: but "actions popular" were not the same as official informations; and in short I have, upon the minutest enquiry, been forced to allow them but a modern date.

Thus then it appears, Sir, that the opposers of the motion cannot take refuge under the wings of antiquity: they are beat out of the entrenchments of Gothic rubbish, under which they hoped to remain impregnable. Whither now will they fly for shelter?—To a majority of voices; in these alone, not in argument, will they prove victorious. If we have any discretion, any shame left, we must agree to this motion, and either totally abolish or modify the Attorney General's power of filing official informations. Were there no other argument for this measure but that single one advanced by the opposer, that the office is odious and suspected, it would, in the opinion of any sober man, be sufficient. For as all government was originally instituted for the ease and benefit of the people, no establishment, which gives them nothing but uneasiness, can be approved by a wise legislature. Let it then be cut off from the constitution as a rotten limb, which escaped the notice of our forefathers in the hurry and precipitation of the Revolution. But we are not pressed by necessity? There is no complaint of any late abuse of this power? This I flatly deny. The power has been egregiously abused in the case of Almon. Why was

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he singled out, and prosecuted before the rest of his brethren? He whose guilt, if any, was only nominal? Why was not the original publisher and others, who had no excuse to allege, first brought to justice? Here I believe every man discovers malice. Almon had been active in promoting certain measures not very agreeable to the cabal. He had published certain journals, which contained anecdotes that some people high in office and power could wish to have buried in eternal oblivion. It was resolved to punish him for these acts of temerity. Hold was therefore laid of this slender twig. But what ensued? The courts dare not make use of the strange verdict procured against him. The only cause which the Attorney General has been able to carry against libellers, he cannot turn to any account. From him we learn, that the office is so odious and detestable to the people, that it does not answer any of the purposes for which it was intended. Has he not here said enough to induce us to abolish or modify it? Yes, certainly; if we do not suppose, with some speculative politicians, who will justify the court at all points, that the people are corrupt, and that the courts of justice and the administration are blameless. For I must aver, that one of these three propositions must be true, else such atrocious libels as we have lately seen could never have passed unpunished.

Now, Sir, I can see no reason for supposing that the people have sunk to the very dregs of corruption, that they naturally delight in slander and detraction, and love to protect libellers and defamers. It is not long since they would bring in a libeller guilty even at the suit of the Attorney General. In the reign of George the second, no such mortifying repulses were received from juries, even when a dangerous rebellion raged in the very heart of the realm. Government was sufficiently respected to maintain its authority. Shebbeare was without any difficulty punished with imprisonment and pillory; and many other delinquents were chastised by the lash of the law. Even so late as the beginning of his present Majesty's reign, when the minds of men trusted to his own benign and auspicious disposition, and were not soured by the interposition of undue influence, the laws had not lost their salutary terrors. Do you ask a proof? The forty fifth number of the North Briton is an undeniable evidence of my assertion; the jury, without any difficulty, found the publisher guilty: what, then, has wrought so sudden a change in the temper and disposition of the people, that they now countenance the most audacious and wicked libels? In so short a time they cannot have become absolutely corrupt. What, then, is the cause of this strange phænomenon? Are the courts of justice depraved and impure, and do they out of spite and malice contradict and oppose them? I hope not; I hope they are unimpeachable. I believe, nay I know, the scandalous reports which are circulated to be ill-founded.

Where, then, Sir, shall we look for the origin of this relaxation of the laws and of all government? How comes this Junius to have broke through the cobwebs of the law, and to range uncontrouled, unpunished, through the land? The myrmidons of the court have been long, and are still, pursuing him in vain. They will not spend their time upon me, or you, or you: no; they disdain such vermin, when the mighty boar of the forest, that has broke through all their toils, is before them. But what will all their efforts avail? No sooner has he wounded one than he lays down another dead at his feet. For my part, when I saw his attack upon the King, I own my blood ran cold. I thought he had ventured too far, and that there was an end of his triumphs; not that he had not asserted many truths. Yes, Sir, there are in that composition many bold truths by which a wise prince might profit. It was the rancour and venom with which I was struck. In these respects the North Briton is as much inferior to him, as in strength, wit, and judgment. But, while I expected from this daring flight his final ruin and fall, behold him rising still higher, and coming down souse upon both Houses of Parliament. Yes, he did make you his quarry, and you still bleed from the wounds of his talons. You crouched, and still crouch, beneath his rage. Nor has he dreaded the terrors of your brow, Sir; he has attacked even you—he has—and I believe you have no reason to triumph in the encounter. In short, after carrying away our royal eagle in his pounces, and dashing him against a rock, he has laid you prostrate. King, Lords and Commons, are but the sport of his fury. Were he a member of this House, what might not be expected from his knowledge, his firmness and integrity? He would be easily known by his contempt of all danger, by his penetration, by

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his vigour. Nothing would escape his vigilance and activity. Bad ministers could conceal nothing from his sagacity; nor could promises nor threats induce him to conceal any thing from the public.

But why do I dwell upon Junius alone? there are numberless other libellers whom you cannot reach: secure in the protection of the people, they laugh at the terrors of information to scorn. All your messengers of the press, all your tribes of informers, are as much despised as they are detested. What is the cause of this general aversion to law, this universal conspiracy against government? We have seen that it arises neither from the natural depravity of the people, nor from the accidental misbehaviour of our courts of law. What is the conclusion? The whole is chargeable upon administration. The ministers are the grand criminals. It is their malversation and unconstitutional encroachments that have roused up in the nation this spirit of opposition, which tramples under foot all law, order, and decorum. Until they are removed and punished, the land will be nothing but a scene of anarchy and confusion. It is not that I do not approve of the proposed enquiry into the conduct of our judges. Though I believe the reports to be false and groundless, yet as a friend to the judges, as a friend to the people, whose suspicions will thus be removed by approbation, reprehension, or punishment, I cannot help giving it my hearty concurrence. There is a letter directed to one of the judges, which charges him with high crimes. Will you allow that paper to walk abroad without any notice? You have tried every expedient for quieting the people, but that of removing the offence. Were it only for the sake of experiment, it would be worth your while to try what effect this measure would have upon the public.

Mr. Attorney General *De Grey:*

Sir; when I hear facts misrepresented, in which I had a personal concern, and cases stated which never had any existence but in the author's brain, I think myself authorized by justice, and bound in honour to contradict them. The hon. gentleman who spoke last has given the House a brief narrative of two facts, which I know to be without foundation; and I must tell him, that, to speak in the gentlest terms, he treats a man injuriously, when he assigns to his actions motives, which are only the suggestions of his own fancy. He informs you, that malice and oppression appear palpably on the face of Almon's prosecution, because, forsooth, he happened to be first brought to his trial, and because his guilt was only nominal. But is the opinion of the hon. gentleman more respectable than the opinion of the jury, by whom he was tried? They found him guilty. His trial preceded that of the original publisher, and the other delinquents, merely through accident. As many informations as could be conveniently got ready, were at the same time filed against the transgressors. The judges, after this process was finished, happened, in the course of business, to sit to hear causes at Westminster before they sat in the city. This is the true state of the case; this is all the malice, all the oppression, which have been exerted on this occasion. If there had been any preconcerted scheme of rancour or revenge, a different course would have been taken. The Attorney General would have first brought to his trial the original publisher, that culprit, whose superior guilt seemed most likely to procure a verdict favourable to government; a verdict, which might serve as a precedent or sanction to the condemnation of the other defendants. Such would have been the true way of showing malice. The very reverse of what is condemned would have been the only rational plan for obtaining this end.

But, after procuring a verdict in this malicious manner, we dare not make use of it! We dare not pass sentence, or punish the guilty bookseller! He shall be called up to receive sentence to-morrow. It is true that Almon was already summoned for that purpose; and yet, after attending, was told that he should not be wanted on that day. The judges being either not agreed in their sentence, or being prevented by some other cause from concluding that business, I did not make Almon appear before them, lest by the rule of the court, they should be obliged to keep him in custody till sentence was passed. I was afraid that such a step might prove injurious to his trade and character. So that what was an act of lenity and mercy, is here charged upon the Attorney General as an act of cowardice and fear. No, Sir, that officer has done nothing of which he needs either to be afraid or ashamed. He misrepresents the actions of no man; he traduces the character of no man. Neither his words nor his deeds need ever call a blush into his cheek.

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Mr. *Edmund Burke:*

Sir; I did not mean to fix a stigma on the character of any particular man. All I wanted to shew was, that there was malice somewhere, and from what I have now heard I find little reason to retract. A pretty satisfactory account, indeed, has been given for Almon's being first tried, and for his not having the other day received sentence. But has any reason been given for his having been tried at all? Has the presumption of malice, that appears upon the face of that transaction, been wiped away by the learned gentleman's rhetoric? No. We have heard much of the legality, equity, and reasonableness of *prima facie* evidence. If ever applicable, I am sure it is applicable to this case. The *prima facie* evidence fixes guilt on the prosecutors, and I am satisfied they have not produced contrary evidence to destroy its force. What is the consequence? They must, according to their own law or logic, be condemned. The share that Almon had in the publication of Junius's letter was so small, that no man of common sense can suppose, that he was on that account marked out as an object of punishment. No, Sir, there were other latent causes, neither so specious, nor so ostensible.

——— "manet altâ mente repostum
"Judicium Paridis, spretæque injuria formæ,
"Et genus invisum, et rapti Ganymedis honores."

I appeal to the honour and conscience of the House, whether I do not speak truth. If I do not, I expect to be contradicted. Does any one chuse to rise? No—no one has the front; and I have the pleasure to see that we have still some grace left amongst us. This is a point that is obvious to the most simple and untutored. Had I been disposed to refine, and to play the metaphysician, my ingenuity, small as it is, would have enabled me to assign no very honourable motives to the quirk, which brought the least culpable first to their trial. Had the original publisher been first tried and acquitted, it was foreseen that common decency would not suffer the other prosecutions to go any further: a circumstance, by which the culprits would save a deal of expence, and certain officers would lose the harvest of their trade. This, and some other points of the like nature I might urge, were I actuated by any malice or personal pique. But I disclaim such unworthy motives. My public conduct shall always be directed by public considerations.

Having said this, I have nothing further to add, but that I see no reason to retract or alter my opinions. I return, therefore, to the three grounds on which I set out, and repeat, that all our present misfortunes are owing to the corruption of the people, to the misconduct of our judges, or to the malversation of our ministry. The absurdity of the first supposition I have explained, I hope, to your satisfaction. The whole blame must consequently fall on the two last, but chiefly on the ministry. The necessary conclusion is, that the ministry ought to be removed, and that the proposed enquiry into the conduct of our judges ought to be adopted.

Mr. *Dunning:*

Sir; as the subjects now before you were precipitately brought on the carpet, I cannot pretend to treat them with that precision and accuracy which they deserve. Their importance, however, is in my eyes too great to let me pass them over without submitting to your judgment a few observations which occur to my mind. In my apprehension, the opposers of the motion have advanced against it only one argument, which has not been fully answered and refuted. This is the argument: both Houses have frequently addressed the King, to desire the Attorney General to prosecute libellers and defamers. The Attorney General has at this moment on his hands prosecutions, which he commenced at the instance of parliament. Will you, then, abolish or abridge the power of an officer, whom you found so necessary to put your own designs in execution? What has been, may be again. More "Whisperers" may be published; and you may wish, when it is too late, that he still possessed the power of filing informations. An hon. friend of mine, who proposed to modify the Attorney General's power, either by allowing the defendant to shew cause in a court of justice why an information should not be granted, or by subjecting the affair to the previous cognizance of a grand jury, answers this reasoning by affirming that there is no occasion for the interference of a court of justice, or of a grand jury, where the grand inquest of the nation, a body much more respectable than any grand jury, has decided the point, and found a true bill, a true ground for a prosecution. This logic would be very just, could it be shewn that the interposition of parliament had in any case answered the end intended. For

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my own part, I have, from all the examples which I have yet seen or read, been obliged to form a very unfavourable opinion of these exertions of power. The laws are capable of supporting themselves without our sanction. When they are not, we cannot add much to their authority. We shall be considered by the nation as the tools of a weak ministry, who are obliged on all occasions to shelter themselves under our wings, and borrow our strength in order to prop the tottering fabric of government. There is something so odious and apparently oppressive in arming the whole legislative power against an individual, who is open to the laws, that the people can never be persuaded there is not more than justice sought. They will conclude that there is malice and revenge at bottom; and that such ponderous bodies, as the two Houses, could not be set in motion by so feeble and inert a power as the love of good government. Hence will arise jealousies and suspicions of our integrity and independence. Hence reflection will be cast upon our character. Satires, libels, and lampoons will be written against individuals, as well as against the collective body. We shall become the common butt of national ridicule. Nothing will be seen but epigrams, puns, and pasquinades, much falsehood and some truth. The land will become one scene of confusion and anarchy. The persecution commenced against Wilkes in this House will justify these observations. I give this example, because it is modern, and comes home to every man's breast. More instances might be quoted, for our history is full of them. Were there but this one, it would justify me in saying, that this consideration ought not to deter us from abolishing or modifying the Attorney General's power of filing official informations.

The same hon. gentleman thinks this is not a proper time for enquiring into the conduct of our judges. And why does he think so? Because we are in a bad humour. Now, I think this is the very best season for such an enquiry. And I will tell you why: that we may remove that bad humour. For, let me tell you, it is not of a nature that will yield to every remedy. It is too obstinate and malignant to be scared away by every quack medicine. The people think the doctrines charged upon the courts of justice, not only inconsistent with the spirit of the constitution, but also with the dictates of natural equity. Can such opinions be eradicated but by an enquiry? Never believe it. It is not that I pretend that their suspicions are well founded. I hope not. At least I do not know them to be so; for I was not present, when the charges were given by the judge.

But, if report be true, there is sufficient ground for an enquiry. There is at least an appearance of oppression in making the master criminally answerable for the act of the servant; and there is something doubtful in that principle of law, which infers criminality from the single fact of publication, or *prima facie* evidence. This appearance of oppression, and this doubtfulness ought, in my apprehension, to be motives of sufficient force to impel us to an enquiry.

The same may be said of the second head of accusation, in which the judges are charged with denying to the jury the right of taking the intention under consideration. Though I confess that they must not in all cases be judges of the law, yet in cases of libels there seems to be a necessity for it; because, if they do not judge of the intention, they judge of nothing. We ought there to make this enquiry, in order to determine how far they are to judge or not to judge of the intention. We ought to mark out the line, which discriminates the province of the judge and jury. This will be the only plan for quieting the present murmurs and jealousies. I am therefore for the enquiry, both as a friend to the judges, and to the people.

Lord *Frederick Campbell*:

Sir; I am really surprised how men of sense and understanding can exhaust their breath and lungs upon a subject, which is not before them. Their conduct puts me in mind of Achilles in the Iliad, who was puffing and blowing in pursuit of Æneas's phantom, while he was safely lodged within the walls of Troy. But thus it is with the ablest of us all, when we allow ourselves to be ruled by prejudice or passion. Like unruly horses, we run out of the course, and are bewildered in all the mazes of error and absurdity. What else could have engaged gentlemen in this wild goose chase after an object?—An object did I say? After a shadow, nay, less than a shadow, since till it is regularly introduced, it is to this House a mere nonentity.

Sir, if any man intends to arraign the

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conduct of our judges, let him, in God's name, stand forth. But let him chuse a proper occasion. Let not the subject be dragged in by the neck and shoulders to interrupt and embarrass a question with which it has but little connection. Though the Attorney General should have abused his power, it does not follow that the courts of justice are in any respect guilty. Nor, reciprocally, does misconduct in the courts of justice imply misconduct in the Attorney General. Their respective authorities are totally distinct and independent. Why, then, blend them together, as if both constituted but one indivisible body? I wish gentlemen would learn to distinguish with a little more accuracy and precision. I remember the time when the same renowned metaphysicians represented it as a crying sin in this House, to accumulate the various crimes of one man, and to make them the foundation of his expulsion. What is now become of that casuistry, by which they would separate the different misdemeanors of the same individual? I am sure there is more unity in them, than in the supposed crimes of the Attorney General and the judges. Why, then, do they not apply the edge of their dialectical acumen to this case? Were it blunt as a coulter, it could not fail to split it. The most vulgar and untutored must see that the two questions cannot be interwoven, and formed into one. All the harangues yet delivered shew but too clearly that they are as wide of one another as east and west. Let us, then, for the present, at least, banish the enquiry into the conduct of the judges, and attend solely to the motion which lies on the table. If, at any future time, it should be thought necessary to resume this topic, a quite different mode of proceeding, must, in my humble opinion, be adopted. Can any man in his senses imagine that this grave assembly will act upon vague report and hearsay, upon the uncertain voice of the multitude, which "bloweth where it listeth, and thou hearest the sound thereof, but knowest not whence it cometh, nor whither it goeth?" No, Sir; we must have something fixed and permanent before us, something that we can see and feel, and not a fleeting ghost, that eludes our grasp. Why did not these outrageous lovers of justice and the constitution pursue this plan? Why did they not lay before us an authentic state of the illegal and unjust proceedings of which they complain? If the verdicts to which they allude, were unconstitutional, why did not they move for an arrest of judgment? Why was not the point submitted to the consideration of the twelve judges? What has become of demurrers and fresh trials? What has become of appeals to higher tribunals? Had some of these steps been taken we might have some object for our consideration, and we should know what plan to follow. At present, we are entirely in the dark; or, what is worse, even than Egyptian darkness, we have a glimmering uncertain light, which can only betray us into the inextricable paths of error. Indeed, the gentlemen, who started this subject, seem to me to be sporting away our time, and inviting us to play with them at blindman's-buff. But, if they have no serious business to engage their attention, and are disposed to amusement and vain declamation, I hope we know our duty better than to join them in such boyish trifling. We have on our hands the weighty and important concerns of the state. To these let us apply with all our might; for at this critical period they are sufficient to employ our whole time and attention.

Mr. *Thomas Townshend:*

Sir; I cannot easily figure to myself a subject that deserves more of our time and attention than the enquiry proposed. For what is its object? The restoration of the constitutional power of juries, which certain judges are accused of having abridged. Can any thing be more interesting to a man, who has the least spark of patriotism, or has indeed any just notion of his own good? Juries are excluded from taking under their cognizance the intention, with which libels are published. Why, then, are they not forbidden to consider the intention in cases of theft, robbery, and murder? I am satisfied they are as unfit for judging of the one as of the other. He whom nature or education has not qualified for determining the guilt of a libel, is unqualified to sit as judge in cases of life and death. Libels are generally addressed to the body of the people. Them they are intended to affect, them they are intended to mislead. Who, then, so proper as they to judge of their tendency and power? For my own part, I always understood, that they were the sole judges in criminal cases, and that the justices were only expounders of the law, men paid by the public to assist and direct them in intri-

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cate and difficult cases. Nor am I apprehensive that the law will in their hands become uncertain and confused. Human nature is every where the same. The decisions of London and Middlesex juries, will be pretty uniform and consistent. If this were not fact, how could the principles of our criminal law in other cases have yet remained the same? There is no great variety or inconsistency in the verdicts passed by the juries of different counties in similar cases of theft, robbery, and murder. Why should not the same harmony subsist in their judgments upon libels? The reason I cannot possible divine, nor fathom. Let those who are more sharp-sighted, explain it if they can. I confess myself unequal to the task. But if this is beyond their reach, let them allow that the encroachments, lately made by judges on such an essential right of juries, call loudly for our interposition.

Lord *Palmerston* rose, to tell the House that he had voted for the same motion when made by Mr. Calvert, and seconded by serjeant Hewitt, (afterwards lord Lifford) four or five years ago*, but now he had altered his mind, and would vote against this motion. This speech brought up Mr. Phipps again: but he was called to order by lord Palmerston, who apprehended a quarrel.

Lord *North:*

Sir; I have attended with the utmost care to whatever has been advanced by the promoters of the motion and the enquiry. Like an ignorant juryman, willing to be a thorough master of the cause which he is to try, I have spared neither pains nor patience in scanning every argument. But, notwithstanding all my assiduity and openness to conviction, I must say, that I see no sufficient grounds for the motion or the enquiry. Were there even complaints made against the Attorney General, for the improper exercise of his power, yet surely this is not the time for clipping his wings, and confining him within narrower limits. If you had a vicious and unruly horse, would you, in order to tame him, remove the only curb which gave you any command over him? No; you would sooner put an addititional bit into his mouth. Not that I would desire to see any new restraint laid on the press. No, Sir; I am far from suggesting such an idea. No man shall ever have it in his power to charge me with evil designs upon that bulwark of the constitution. I know its value too well to harbour so rash a thought. But while I would preserve to the people this noble privilege undiminished, I would not extend it beyond all bounds, and put it in the power of every discontented and factious scribbler to insult government with impunity, and to kindle jealousies and animosities throughout the nation, without any means of redress. Such a state of things would not be liberty, but licentiousness. At least, if it be liberty, I am sure we have enough of it already. But some people are so unreasonable that nothing will satisfy them but the overthrow of all the barriers so wisely erected by our ancestors for preserving the distinct members of the constitution. They forget that our government is of a mixed nature, and cannot therefore bear every thing on one side, and nothing on the other. They do not foresee that its balance will be destroyed by taking from the regal, and adding to the popular scale. In my opinion, the different weights, which compose our government, are at present nicely poised, and we shall only spoil the equilibrium by our tampering. This would be particularly the consequence at this juncture, when the minds of the people are unhappily so much inflamed, and so strongly disposed to encroach on the claims of the crown. Let us, then, wait with patience till the present ferment has subsided, and prepared the nation for listening to reason.

Sir, it matters little whether this institution be ancient or modern, provided it be good. That it is so in our days must, I think, be evident to every man who reads the papers and pamphlets which are constantly published. They teem with slander and defamation. Slander and defamation are become the food and raiment of printers and booksellers. They absolutely live on the murder of public and private characters. To what lengths would they not go, did they not dread the power of the Attorney General? They would become quite outrageous and insufferable.

Sir, part of what I have said of the motion is equally applicable to the enquiry. This is not a season for engaging in such a momentous affair. Some of us are too much influenced by passion and prejudice; and we have on our hands plenty of other affairs, more urgent and more important. Indeed, if by this enquiry we could re-

* See p. 40 of the present volume.

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move the doubts and jealousies which are said to exist, there would be one argument in its favour. But I am satisfied this would not be the case. The same men who have engendered the present scandalous reports, who have fostered, nourished, and carefully reared them up to maturity, would have still the same cause of discontent, that is, no cause at all, but the want of places and pensions; and they would swell into a new subject of complaint the sentence of acquittal, or rather approbation, which we should be forced to pronounce. I know this would be the end of the enquiry. Your Wilkes's, your Junius's, and your Bill of Rights men, urged, like spiteful toads, by malice and hunger, would spit their impotent venom in our faces. They would set a-going the same mint in which they have coined the many false and villainous reports which are propagated concerning our courts of justice. Having been punished by our judges for their crimes, they would, like boys, who wreak their vengeance on the guiltless stone by which they have been hurt, spend their fury on the mere instruments which the law employs in chastising them. Unhappy desperadoes! who do not foresee that this attack upon the guardians of the law will prove fatal to the law itself, and that they cannot long survive. Common enemies to prince and people, they must be objects of common vengeance. But incendiaries rejoice in a general conflagration. The fall of their neighbour's house is their harvest; they fatten on its spoils.

But we are told, Sir, that it is the misconduct of the ministry that has wrought the people into this bad humour, which makes them oppose all law and order. No, Sir, it is not the misconduct of the ministry, nor the misconduct of the courts of justice, nor the corruption of the people. The ministers and the courts of justice have not done a single act which they cannot justify by the law and the constitution. They are ready to answer for their conduct. But it is the credulity of the people, wrought upon by flagitious libellers, that has excited this outrageous opposition to government. And where is the wonder that they are thus misled? Can any man recollect a period, when the press groaned with such a variety of wicked and desperate libels? Such is their number, that one would imagine there is not a single pen made, a single standish used, or a single scrap of paper bought, but in order to manufacture a libel. The first thing we lay our hands on in the morning is a libel; the last thing we lay out of our hands in the evening is a libel. Our eyes open upon libels; our eyes close upon libels. In short, libels, lampoons, and satires, constitute all the writing, printing, and reading, of our time.

Sir, when factious and discontented men have brought things to this pass, why should we be surprised at the difficulty of bringing libellers to justice? Why should we wonder that the great boar of the wood, this mighty Junius, has broke through the toils, and foiled the hunters? Though there may be at present no spear that will reach him, yet he may be some time or other caught. At any rate, he will be exhausted with fruitless efforts; those tusks, which he has been whetting to wound and gnaw the constitution, will be worn out. Truth will at last prevail. The public will see and feel that he has either advanced false facts, or reasoned falsely from true principles; and that he has owed his escape to the spirit of the times, not to the justice of his cause. The North Briton, the most flagitious libel of its day, would have been equally secure, had it been as powerfully supported. But the press had not then overflowed the land with its black gall, and poisoned the minds of the people. Political writers had some shame left; they had some reverence for the crown, some respect for the name of majesty. Nor were there any members of parliament hardy enough to harangue in defence of libels. Lawyers could hardly be bought to plead for them. But the scene is now entirely changed. Without doors, within doors, the same abusive strains prevail. Libels find patrons in both Houses of Parliament, as well as in Westminster-hall. Nay, they pronounce libels on the very judges. They pervert the privileges of this House to the purposes of faction. They catch and swallow the breath of the inconstant multitude, because, I suppose, they take their voice, which is now that of libels, to be the voice of God.

Sir *William Meredith:*

Sir; in my apprehension, no two questions can be more different or more unconnected than the motion and the enquiry, which has engrossed so much of our time and attention. The only thing which they have in common is, that the Attorney General and the Judges are law officers under the crown, and that

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they follow their employments in the same hall. But is this a sufficient reason for tying them always together in a bundle? By no means. It is not pretended, if they have erred, that they have erred in conjunction. Their power and jurisdiction are separate and distinct. What nature and the constitution have kept asunder, let us not force into a violent union. By the conversation which I have had with the honourable proposer of the motion, I understand that he never meant to have this topic at present introduced, but that he intends to reserve it for a future opportunity. Nor can I see with what view it could be started, except with that of thwarting and impeding the progress of the affair now under our consideration. Certain I am, that it has hitherto had no other effect. It has fruitlessly consumed much of our time, and prevented us from coming to any decision. Let us first dispose of the motion, and then we shall have the road smooth and easy for an enquiry.

Sir, the arguments advanced against the motion serve only to convince me of its reasonableness. For, if the power of the Attorney General be odious, why should it be continued? This alone is a sufficient ground for its abolition; or, if you will not abolish it, for its amendment; since the Act of William the 3rd, is itself only an amendment, taking from the master of the Crown-office the authority which is now lodged in the hands of the Attorney General. Had our ancestors understood the full extent and meaning of the latter clause, I do not believe that they would have left the affair on its present footing. Let us correct their oversight, and restore the constitution in such an essential article.

Sir, the enquiry seems to me extremely necessary, both to quiet the murmurs of the people, and to prove the integrity of the judges and of this House. I am convinced nothing less will give the nation satisfaction. For, let any man consider the words that have fallen from the hon. gentleman, who sat as a juryman on Almon's trial, I am sure they are sufficient to excite horror in the breast of any feeling man, and to render the people outrageous. He tells you, that though he was inclined to think the culprit innocent, he was led by the law of the judge to find him guilty. Are not these quirks, these artifices alarming to every considerate man? do they not call loudly for an enquiry? Yes; and if we are honest men we will enquire.

Mr. *Cornwall:*

Sir; having heard much of this affair in conversation, and read something of it in a pamphlet which was put into my hands in the country, I was resolved to bring it into the House some time this session. I thought this a proper opportunity. I proposed it therefore as the ground-work of this motion without any views of obstructing or thwarting it. I am glad to hear that the proposer of this motion intends to prosecute this affair. However much we may differ in the mode, he may be assured of my assistance.

Mr. *Wallace:*

Sir; an hon. friend of mine, who proposed to modify the Attorney General's power of filing official informations, says, that the defendant should, as in courts of justice, be allowed to shew cause why an information should not be granted, and that this regulation would prove of unspeakable benefit; but to whom would it prove of unspeakable benefit? not to the nation, but to libellers. This proceeding would only be giving them a previous warning to make their escape, or to abscond from justice. No libeller could thus be punished. They would, like Moore, lurk in some dark retreat, and become every day more and more daring in their attacks on every thing sacred and venerable. Every illiterate fellow might live at the expence of government, by pouring out floods of barbarism and nonsense on the abused public. Nothing would sell but "Whisperers," and such execrable trash. The morals, as well as taste of the people, would be corrupted. The press, which was intended for the support of literature no less than of liberty, would become the ruin of both. For barbarism and slavery will in this nation follow close on one another's heels. Liberty, therefore, is more interested in the support of this power, than some gentlemen suspect. Let them then not be so precipitate in their innovations. The discussion of this point requires more time and care than we can allow at the present juncture.

Sir, the same sentence may be passed on the secondary object of your consideration, the enquiry into the conduct of the judges. The principal reason urged by a learned serjeant, in order to move us to this enquiry, is, that encroachments have been made on the constitutional power of

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juries. But how comes he to be on this occasion such an obstinate stickler for juries? A jury gave a verdict at Guildford against one of his clients, an atrocious and notorious libeller. What did this learned, constitutional serjeant do? did he acquiesce in the sentence of the jury? did he bow the knee to their authority, and submit with silent respect and reverence? No; this bulwark of liberty and property, this liberty boy, and Bill of Rights man, set their authority at nought, and appealed from their jurisdiction to that of the very court and judges, whom he would arraign for circumscribing the power of juries. Is this fair? is this honourable? shall the same man, who would induce our judges to take the law from juries into their own hands, be the very first to condemn that step? People may talk of uniformity and consistency of conduct, of patriotism and attachment to law and the constitution: but, I am mistaken if these names are strictly applicable to this behaviour. Attacks upon individuals I abhor; and it is for that reason, I am now so explicit. Gentlemen feeling themselves as vulnerable at least as those whom they arraign, will be more cautious in impeaching others, whom they confessedly do not equal in abilities, and whom they certainly do not exceed in integrity. With such characters the law of retaliation is the only expedient. Tooth for tooth, and eye for eye, is the sole plan, which can put such Sadducees, or rather Pharisees, to silence.

Mr. Serjeant *Glynn:*

Sir; no man has a greater veneration for juries than I have. They are our best securities against the oppression of the crown. Were it not for them, I do not believe that we should now be here discussing their rights. Their decision in the case of the Seven Bishops, saved the nation. Entertaining this opinion of their importance, I should ill deserve the name of a friend to the constitution, if I myself encroached upon their powers, and explained away their privileges. But I disclaim such inconsistency of conduct. I never invaded the rights of juries, nor attempted to wrest the law from them, where their jurisdiction was competent. The case to which the hon. gentleman alludes, is very different from that, which I have arraigned. It is an action upon the case, an action which depends upon a point of law, and which was not therefore cognizable by the jury at Guildford. I have always asserted, that a jury ought to enter into the whole merits of the case before them, to go into the general issue, and to give a verdict accordingly. But I have never insinuated, that when a difficulty in law arises, they are the proper judges. No, Sir, I have always held the court to be in these cases the dernier resort, the depositaries and expounders of the law. Were not this my notion of the matter, how could I approve of special verdicts, which are so frequent and so constitutional? They are only an appeal from the jury to the court, or rather they are an acknowledgment from the jury, that they deem themselves unqualified for judging of the affair, and that they leave it to the doctors of the law. The case determined by the jury at Guildford, was, in my apprehension, of a similar nature. It was involved in a question of law, which if not beyond their sphere, seemed to me not to have been sufficiently considered by them. Could I then have acted more constitutionally, than by advising my client to undertake the only regular and legal plan of defence, which remained? Let us even suppose, that I was convinced this step tended to an encroachment on the province of juries, yet will this hon. gentleman blame my conduct as an advocate? has he never pleaded against his own private sentiments? has he never given an advice in Westminster-hall, which he would not give in this House? when I come into this assembly, I lay aside the advocate, and assume the senator. I advance nothing but my real opinions, nothing but the decisions of my reason and judgment, nothing but what my head dictates, and my heart approves. And, since I am provoked to it, let me now declare my genuine sentiments on the state of our courts of justice. They are not without faults; they have been guilty of misdemeanors; and there is real and just ground for the proposed enquiry. Upon examination, a solid foundation for the present complaints will appear. I stake my credit in this House, upon the truth of this assertion. Need I say more to move you to the enquiry? when the proper time comes, I engage to prove what I so confidently affirm.

Mr. *Wallace:*

Sir; it is not material to me what the opinion of the learned serjeant may be; since it is my own fixed and deliberate opinion, and I believe, the opinion of man-

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kind in general, that the advice of a man of honour and honesty ought to be the same in Westminster-hall and in this House. I do not understand that casuistry, which establishes one system of morality for the observation of an advocate, and another for that of a member of parliament. Both should have one common plan of ethics, and that is, both should be honest men, and not fight, like Swiss, on either side, as interest or convenience dictates. A man cannot be divided from himself; he cannot be an honest man in the House of Commons, and a dishonest man in Westminster-hall. The character of duplicity and insincerity will follow him as a shadow follows the body. The learned serjeant may reason and refine upon the nature of the trial at Guildford; he may tell us of an action upon the case, and of points of law; he may split, divide, and then subdivide, as long as he pleases; but he never will persuade me that the jury were not as proper judges of Horne's case, as of any of the cases in which he would have them allowed to go into the general issue, and to find a verdict accordingly. The point of law in the trial at Guildford was not more intricate and obscure than the point of law, which has produced this outcry against the judges. If the serjeant will make use of that learning, of which he is possessed, he will find my observation to be just. Not that I think the conduct of the judges to be illegal. The legality of their proceedings I take to be perfectly clear and evident. All the obscurity is on the other side; and I am convinced this truth will appear, whenever the question comes to be regularly discussed in this House.

Mr. *Dunning:*

Sir; I only rise up to do the learned serjeant that justice which he forgot to do himself. The action at Guildford against his client, was not only for a libel, but also for defamatory words. The prosecutor foresaw that he could not be convicted of having published a libel. As a succedaneum, therefore, as a reserve, in case he should be hard pushed in the fight, he strengthened his line of attack with those auxiliary words, which the culprit had been charged with having uttered before the freeholders of Surry, assembled for the purpose of instructing their representatives. As had been suspected, the jury acquitted the learned serjeant's client of the libel, and found him guilty of verbal slander. What, then, can be more different than the two cases? Yet the learned counsellor on the other side the House, treats them as if they were the same, as if a libel and verbal slander conveyed the same idea. The learned serjeant apprehends, that the occasion on which the words in question were spoken, gives them a legal exemption from any prosecution. He imagines that constituents, when they are assembled in order to instruct their representatives, or to examine into their conduct, have a right to utter their sentiments freely, and to accuse, censure, condemn or approve, whatever part of their behaviour they think proper. If they are not allowed this privilege without any fear or apprehension, how can the purity of representation be preserved? How can the generality of constituents know whether their deputy has acted conformably to their intentions, or not, if freedom of debate is not granted, if those who possess and can communicate the best intelligence, are not suffered to explain facts, and to draw a true picture of the person under their consideration? To deny this privilege, is to deny the right of representation; because it can upon no other plan remain entire and undiminished. The most worthless person may, after betraying the nation to an arbitrary minister or tyrannical king, be palmed upon the people as the best of delegates. The profound ignorance of his character, which the verdict at Guildford tends to establish, will often be attended with this dangerous consequence. Such, I apprehend, were the motives, which induced the learned serjeant to move for an arrest of judgment, and to bring the affair before the court as a point of law, not competent to the jurisdiction of a jury. Say what you will of the means, you must allow that the end was good. Every scheme that has a tendency to improve the constitution in such an essential point is always meritorious.

Mr. *Rigby:*

Sir; as the learned gentlemen of the long robe have taken up so much time, and so great a share of this debate; as they are so little agreed amongst themselves; as we have so very little encouragement to submit our opinions to their authority, while they cannot agree amongst themselves; and as, above all, their profound learning is little suited to the capacity of us ignorant and unlearned men, may an unlearned man be permitted a few words, which may perhaps be better

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understood, by such unlearned men as myself, and may profit more than all the learning we have so long patiently sat to hear, without finding scarce any one thing settled? And it is only to observe to the House, that however those who have spoke on this subject, have every one differed in their ideas upon the subject, yet they have all, learned and unlearned, agreed in one point of law, that the practice of the Attorney-General's filing informations *ex officio*, is a practice immemorial, founded both in the laws and the principles of the constitution. So that whatever may be the fate of this curious proposal now made, there hath this good effect arisen from the debate which has been had upon it, that it is universally allowed to be so. We are now going to a question of what may be right to be done for the future; but it must be for ever after understood, that for all times past, and until this proposal for new modelling this power of the Attorney General be adopted into our constitution, the old one is now determined to be, and to stand, undenied by any one single opinion, a legal fundamental power, of unquestionable authority, exercised by the King's Attorney-General, in all times invariably without dispute or controversy.

This speech, which with infinite art clinched the nail that had been driven by every speaker on the side of the court and in the secret, gave so proper a close to the debate, and made so proper an impression, that the cue was given, and the question was immediately called for, with all that clamour and vociferation which is used when a certain body desires to have no more heard. When the Speaker rose to read the question,

Mr. *Pownall* desired to be heard. He begged the House to consider how precipitately they were going to give authority to an opinion of the most extensive and dangerous consequence, if they now went to the question on the matter proposed, without even suffering the position stated by the hon. gentleman who spoke last, to be disputed. He hath said, that it hath been proved to be a truth, that the Attorney-General's power of filing informations *ex-officio*, is a legal, fundamental, constitutional power, exercised in the King's court invariable, and of time immemorial; and that this truth is, on all sides the House, without the controvertion of on single opinion, universally and unanimously admitted and subscribed to. If the present clamour should prevail with the House, to go to the question, without permitting any one to have an opportunity of denying it, the conduct of those gentlemen will give effect to what is not fact, and will precipitate the House into giving an impression, as if the House had adopted, collaterally, an opinion, which is not the fact. On the first point, Sir, I deny that any such opinion of the Attorney-General's power is universally and unanimously received and allowed by this House. I, Sir, unlearned as I may be, of little weight as my opinion may be, do insist upon it, for one, that I deny it. And, if I might hope to be heard, if the House would have one moment's patience, and indulge me, I would undertake to show, that this exercise of power in the Attorney-General, is neither legal nor constitutional, is neither conformable to the common law of the land, nor authorised by statute law, except in some special case, where that process is specially for such case directed. On the contrary, our law knows not of, nor acknowledges any other mode, by which a criminal can be put upon his trial, but that of indictment or presentment of his country. The very mode of information is a process in the civil law, and borrowed from the practice of it. This usage of information, under the name of suggestions to the King, and such like, is of very ancient use. But those suggestions were not proceedings in the King's-bench, nor in the law courts. They were proceedings before the king and his council, and were the rise and origin of the Star-chamber, as appears in the statutes upon your table. I mean the statutes of Edward 3. Mr. Lombard, in his account of the Star-chamber and its proceedings, commences with the account of these suggestions to the king—as these were proceedings of the king and council, as *conservator pacis*. A process of the like nature was admitted here, as was directed to be observed by the justices, or conservators of the peace in that time. But it can never be proved, the most learned of the long robe have not proved, and cannot prove, that any such proceeding ever was admitted, as established in the court of King's-bench, till the period of the establishment of the Star-chamber in Henry the 7th's time. Since that period there do exist some precedents, but prior to that period they cannot produce one. [Here some gentlemen in large full-bottomed wigs shook their heads; as much as to say, he is wrong, totally wrong. This gave fresh spirit to the callers for the

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question, and the clamour began again.] Mr. Pownall, however, continued by saying, that that authoritative shaking of the head may have effect where those wigs are to give weight to judgment, but they give no force nor weight to argument. If I am wrong convict me. I call upon you to prove the contrary. The conviction of my error may produce truth. I challenge those gentlemen to the proof. Until the contrary is proved, I will affirm, that this proceeding by information *ex officio* is directly contrary to our constitution; is not known to our common law; is not authorised by our statutes; is at best an usurpation of the court whenever practised; crept in from the habit of exercising it according to civil law proceedings in the Star-chamber; and when that cursed court was abolished, was left as a bitter layer of it, which had struck its poisonous root in the King's-bench.

The question being impatiently and clamorously called for, was carried in the negative, by 164 to 72.

DEBATE IN THE COMMONS ON THE POWER OF THE ATTORNEY GENERAL TO FILE INFORMATIONS EX-OFFICIO.—*From the Gentleman's Magazine.*] November 27. The Hon. Constantine Phipps moved, "That an Act made in the 4th and 5th years of the reign of William and Mary, intituled, 'An Act to prevent malicious Informations in the Court of King's-bench, and for the more easy reversal of outlawries in the same court,' might be read." And the same being read accordingly, he moved, "That leave be given to bring in a Bill, to explain and amend, and render more effectual the said Act:" this produced a debate concerning the power lodged in the hands of the Attorney General, to file informations *ex-officio*.

The Hon. *Constantine Phipps:*

Sir; the power which is lodged in the hands of the Attorney General, to file informations *ex-officio*, is scarce less compatible with a free government, than the Star-chamber, to which it is nearly allied, and of the nature of which it partakes. The Attorney General is removable from his office at pleasure, and his temptations to please those who can remove him are very great. I am afraid, that where there is great temptation there will always be little virtue. When duty to the public lies in one scale, and very considerable private emoluments in the other, it is no breach of general charity to say, that the beam will turn in favour of interest against virtue. The Attorney General is a man, and if we do not expect him to be more, we should never trust him with a power, which, when his interest out-weighs his duty, will be employed for the most dangerous, the most alarming purposes. When a minister shall command, he must either put a fellow-subject to a most enormous expence, whether innocent or guilty; or he must give up all hope of a pension of 3,000*l.* a year, all hope of the office of Chief Justice in Eyre, and bid the King's-bench and the Chancellorship adieu for ever. The very existence of this power, in any office, is a badge of slavery upon the people. The definition of a freeman, in the best writers upon the subject, is a man subject only to known and invariable laws; and by this definition, no man in England is free, while the Attorney General, or rather the ministry, for the time being, however arbitrary, oppressive, and corrupt, has a power of filing informations. It is true, indeed, that an information is never filed by an Attorney General, but as the commencement of a prosecution for an infamous, a seditious, or a treasonable libel, and that the publication of such libels is a breach of a known and invariable law; but then it must be remembered, that the Attorney General is at liberty to give this name to whatever paper he pleases. He may, if he pleases, call the demonstration of a mathematical problem, an infamous, seditious, and treasonable libel, and when he has branded it with this name, he may file an information, and commence a prosecution, without hearing any evidence, or admitting any defence. The philosopher indeed, would, in the course of the trial, be able to justify his conduct, and the Attorney General might well despair of success; but in either of these cases, he might enter a *noli prosequi*, and the poor persecuted subject may be ruined by the expence. I remember, when I was a boy, to have read in Æsop's Fables, that the lion issued out his royal proclamation, forbidding every beast that had a horn to appear within a certain distance of the court, upon pain of death; a fox, who was within the fatal circle, was met, running away with great precipitation, by a dog: Where are you running? said the dog. Why, said the fox, have you not heard the proclamation? Yes, replied the dog, but what is that to you? Do you not see this wea

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upon my forehead? cried the fox. Yes, said the dog, but that is not a horn. True, said reynard, but if the king, or his attorney general, should call it a horn, it will cost me my head. A geometrical demonstration is not a libel, but if any minister, with the savage cruelty of the lion, or any Attorney General, with the supple craft of a jackall, should call it a libel, the writer may be undone. And thus at present, the liberty and property, and, consequently, the comforts of life, of the honest subjects of Great-Britain, are at the mercy of a minister or an Attorney General; or a minister, or Attorney General's pimp or footman. I beg, however, that I may not be supposed to insinuate, that any such abuse of power has happened in our days: my motion does not arise from any resentment of oppression actually suffered, but is levelled wholly against the existence of a power that may be thus abused to oppress. I expect to be told, that this discretionary power of the Attorney General has the sanction of the common law, and this I am not disposed to controvert: but it does not follow, that because it has the sanction of the common law, it is constitutional. The spirit of our constitution is freedom; the security of the subject, from every arbitrary and discretional power, in the disposal of their persons and properties. It will not be pretended, that immemorial custom is more sacred than an express statute, enacted upon mature deliberation by the three estates of the kingdom. We find statutes ineffectual or pernicious, and we repeal them; is custom, then, to be set up as a deity, exempt at once from error and controul? Why may we not alter or abrogate a custom as well as a statute? Shall we erect mounds and bulwarks against the encroachments of tyranny, before every other part of our constitution, and leave it open here? But, perhaps, I may be asked, why all this zeal for defence, when there is no danger of an attack? Why take a power which the worst ministers have been suffered to possess, from the best? Why destroy it, just when there is no reason to fear that it should be abused? I answer, that the time when there is no intention to abuse it, is the very time when we should attempt its destruction, because, then only, there is a probability of success. The power will readily be given up by those who do not wish to avail themselves of the mischievous purposes to which it may be applied; for a minister himself, if his intentions are upright, will have an interest in its destruction, in common with his fellow subjects.

Sir, wisdom and public spirit are not the usual concomitants of ministerial power: and many ages may lapse before we have such an administration as the present, and I would improve the opportunity with more zeal, as it is less likely to return. That the power in question has been abused in times past, I think nobody will deny. I shall mention two or three instances, which have happened since the time of Edward 3, for I find no memorial of the existence of this power earlier. The first is of a poor bookseller, who, though in a state of insanity, was fined 100*l.* because his servant had published what was called a libel, without his privity or consent. The second was of so flagitious a nature, that it brought the Attorney General to the bar of this House, for an improper exercise of his authority: this officer had no means of exculpating himself, but by proving that he received the information, which had been filed in his name, from the Secretary of State, literally as it stood, and that he was only a passive instrument in the hands of others. The instances of abuse of this power, during the reign of the Stuarts, are too numerous to specify, and too well known to render a specification necessary. But I have now in my pocket, the affidavit of a man, purporting, that he was prosecuted by the contrivance of the Attorney General, for a paper called a libel, which his servants inserted in a newspaper when he was sick in bed. What farther evidence can be required, that this power ought to be trusted in the hands of a ministry no longer? Men have been bad, and consequently may be bad again: and I know nothing so likely to make a man bad, as the entrusting him with unlimited power: power will make wisdom capricious, and humanity cruel; let us then, for the sake of all parties, as well of those that govern, as of those that are governed, remove this "accursed thing" from among us, that our prosperity and happiness may be permanent and secure.

Mr. *Welbore Ellis*:

Sir; if it was not for regret at the waste of that time, which ought to be employed for more important purposes, it would be amusing to hear the extravagant declamations of some gentlemen in

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this House. I can but smile at the goblins and fiends which they conjure up to betray us into real dangers, by terrifying us into confused and absurd efforts to avoid those that are imaginary: goblins and fiends may always be resolved into clouds and shadows; and always vanish the moment they are approached to examination. Is it not pleasant, to hear gentlemen declare, that they themselves, and every other subject of Great Britain, are in a state of slavery, because the Attorney General continues in possession of a power, that has always been appendant to his office? Much has been said to shew, that this power is liable to abuse, but if this is a reason for abolishing it, all power should be abolished, for all power is liable to abuse. We have been told, indeed, that the power of the Attorney General extends not only to the punishment of offences, but to the making of them; and it has been insinuated, that no man knows when he incurs pains and penalties, because no man can guess what the Attorney General will call a libel, for which pains and penalties are inflicted: but I should be glad, that gentleman would give us a single instance of an information filed by the Attorney General, against the author or publisher of a paper as a libel, when there was no colour for the charge. It has been said, indeed, that printers have been punished for the actions of servants, to which they were not privy; but what has this to do with the Attorney's construction of a paper published by the servant? I believe it is generally allowed, that the paper which was the subject of the information, even in the case alluded to, was by no means miscalled: and even supposing that to happen, of which no instance has yet been given, the injured subject is not without remedy. The hon. gentleman has cited a case, which, by the general terms in which he has mentioned it, he seems to have "seen through a glass darkly," in which an Attorney General was brought before this House, for an improper exercise of his authority. If an Attorney General's conduct is cognizable by this House, and under its controul, there is no great reason to fear, that his power will become an instrument in the hand of government, for the oppression of the people. It has every check, which, by the nature of our constitution, it can have, and those who would new model the constitution, upon pretence that the different essential parts of it have changed their nature, should speak out, and, instead of pretending to support our constitution, declare their intention to subvert it. Those who pretend that our constitution is impaired, and that the body politic is sick, act a ridiculous part of the *Malade Imaginaire:* I will not say ridiculous only, but dangerous; they are doing as much mischief by their motions, their bills, and their resolutions, in one case, as was done by pills, boluses, and electuaries in the other. We have, ever since the last establishment of our civil and religious rights by the Revolution, been a free and a happy people; and but for daring empirics, without honour and without skill, who would poison the patient to fill their own pockets, we shall be a free and a happy people still. The hon. gentleman was pleased to suppose, he should be asked why an attack was made upon this ancient power of the Attorney General at this time, and to this question he has thought fit to give an answer, which, if taken literally, does honour to the present administration, and if ironically, is nothing to the purpose: I shall give an answer of another kind: the attack upon the power of the Attorney General, is made from the same motive that urges a thief to burn the gallows: the powers of the law are formidable, in proportion as its rules are violated: the party which the hon. gentleman has thought fit to espouse, is obnoxious to punishment by this power, beyond all example; and it is therefore no wonder that they should wish it might be destroyed. The lampoons and libels of former times, were compliment and panegyric, in comparison with those of our own. Every thing venerable and sacred, every thing amiable and good, is now the object of scurrility and abuse. A banditti of ruffians in vizors have got possession of the press; and every reputation, whose splendor throws their own infamy into a darker shade, is assassinated with a brutal fury, that would disgrace the Mohawks of America. Youth is not safe in its innocence, nor beauty in its claim to protection: wisdom is no security to age, nor a public service to the veteran soldier: from the rage of these worse than cut-throats, there is no asylum, but the club at Appleby's, or the Prince of Orange's Head: the assembly for support of the Bill of Rights, is the only Catholic church, beyond the pale of which there is no salvation; all without are heretics, interdicted, excommunicated, damned: all *anathema maranatha.*

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Sir, will any gentleman stand forth and deny this charge? If the most inveterate prejudice must acknowledge that it is true; is any man candid, is any man honest, who advises this House to annul, or even abridge that authority, which is the chief, if not the only effectual check, that the constitution has provided against the abuse? Shall we remit our guard, and open our doors to these wretches, whose lips are an open sepulchre, who go about seeking whom they may devour. I say devour, for they live upon you, they live upon me, they live upon every man, whose eminence or merit will enable them to convert abuse into a dinner. Surely, every man who has any reputation to save, every man who has any regard to truth or justice, will, instead of removing any of the present works of defence, strengthen them with new bulwarks, and keep these barbarians at a distance.

Sir; if every thing that has been abused, and that may be abused, is to be abolished, let us immediately put an end to trial by juries, to the liberty of the press, and not to stop short in our career, to the Christian religion, for I know nothing that has been more abused, except the liberty of making motions, and proposing bills for the amendment of the constitution.

Mr. *Cornwall:*

Sir; from the representation, which some gentlemen, in the abundance of their zeal, have been pleased to make of our constitution, it might naturally be supposed to be in the state of a crazy old building which just hangs together, but which, upon removing the highest part, either to repair or improve it, would immediately fall into ruins. I must confess, that I do not think of our constitution with the same superstitious reverence that the Jews did of their Sabbath: I think the constitution was made for man, and not man for the constitution. I am far from thinking, that no alteration should be made in it till we are pressed by immediate necessity: the evils that we foresee, may and should be prevented; to remedy them when they happen, will certainly be much more difficult, and may be altogether impossible: that something should be done, I think the very murmurs that I hear in every corner of the kingdom, demonstrate: I hear that juries have been vilified from the Bench, and represented as unworthy of their trust: that they have been taught to pay no regard to the quality or fortune of the parties in assessing damages, and to make no greater reparation to the first peer of the realm, than to the meanest peasant; I hear that a juryman was rejected without any challenge from the parties, who are alone invested with that right by the law: I hear that a judge has made it a kind of a maxim, to inform the jury, that they are judges of fact only, and not of law; and that they were not to concern themselves with the intention of the agent, but simply with the overt act: yet the overt act is criminal or innocent only, in consequence of the intention, as appears manifestly in the case of manslaughter. As in the case of manslaughter, the jury is to take the intention into the account, why not in every other case that comes before them? I hear, also, that a bookseller has, by the management of a judge, been found guilty, not for the act of his servant, but for an act not proved upon his servant. Need I say any more to excite this House to an enquiry into the power, the exercise of which has brought on these mischiefs. You are the grand inquest of the nation, and I would fain rouse you to discharge your duty. I speak not from prejudice or pique, but from my judgment and my heart: and I conjure you as you value our laws and liberties; as you regard at once your own interest, and your duty to your constituents, that you would undertake the important task without delay.

Mr. Attorney General *De Grey:*

Sir; I do not rise up to oppose the abridgment of my power; but to justify myself in the exercise of it. Every act of government is in its own nature unpleasing; it controuls the will of individuals, it restrains natural liberty, and it inflicts punishment: the benefit is general and remote, the evil is particular and immediate; whoever is entrusted by government with any part of its power, will therefore necessarily incur reproach by the exercise of it, and as I am by no means indifferent, with respect to the opinions or reports of others, I cannot be supposed to be very tenacious of a power which I can never use, however honestly, but at the expence of my reputation.

But before I attempt a defence of myself in the exercise of the power in question, I shall hazard a few words in defence of the power itself. It has been called unconstitutional, but I think with more zeal than knowledge; for as the hon. gentleman seems to acknowledge, it makes a

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part of the common law, which is as ancient as the monarchy, and forms the very basis of our popular liberty. It has received, also, the sanction of the statute law, as appears by the Act which has been now read, and in what sense it can be called unconstitutional, I must confess I am not able to conceive. But the hon. gentleman, who made the motion, wishes to mend the constitution: is it likely to be mended by substituting his imaginations for the experience of successive ages? He says, that when statutes have been found ineffectual and pernicious, they have been repealed; and insinuates, that a custom is not more sacred than a statute; but can he give us an instance in which a statute was repealed, or a custom abolished, when nothing more appeared against them than general clamour, and unsupported declamations? it has been said, that a House divided against itself cannot stand, a principle upon which it will appear, that the hon. gentleman is attempting the destruction of this House. I have, at this moment, prosecutions in hand, which were undertaken at the request of this House, and the House is now urged to annihilate the very power they have employed. But the Attorney General has been represented as exercising the most oppressive despotism, subject to no controul, and liable to no account; but where can gentlemen have lived, or with what books or people have they conversed, who do not know that the Attorney General, like every other crown officer, is responsible for his conduct, and if he acts contrary to law is amenable to justice. I blush for these gentlemen, when I inform them, that in cases of official information, the Attorney General represents the grand jury, and that whatever prosecution he undertakes, he undertakes at his peril. Let me assure them, that he is not the monster that he has been represented; he cannot trample upon the constitution, nor set his foot upon the neck of liberty; he can devour neither the law nor the press: nay, that which is his proper prey sets him at naught: a libel stares him in the face with a sneer of defiance. In the character of this monster I feel my own impotence, and to drop the figure, have scarce been able to bring one offender, however flagitious, to justice. I have neither been able to preserve the most sacred characters from the most outrageous abuse, nor to procure the least compensation for the injury: my power cannot punish the guilty; how, then, can it be dangerous to the innocent? If it is not now adequate to its purpose, upon what pretence can it be made less? Whatever it be, let me, upon this occasion, declare, that I have applied it with my best abilities to the doing of justice between the subject and the crown; and I have the satisfaction to perceive, that no charge has been brought against me, though there is no want of good will for the work: I have several gentlemen in my eye who would not have spared me, if any malversation could have been laid to my charge, with a reasonable prospect of supporting it. I may therefore fairly infer from no such charge having been brought, that there is no colour to bring it.

But the hon. gentleman has an affidavit in his pocket, purporting, that by the contrivance of an Attorney General, a printer has been prosecuted for an article inserted in his newspaper by a servant, when he was sick in bed: but supposing the fact to be as it is represented, and supposing that the prosecution was, for that reason, ill-grounded, it does not follow that there was any iniquitous contrivance of the Attorney General: many bills of indictment are found every sessions against persons, who, upon further examination of the affair, appear to be innocent; but was the prosecution of such persons ever charged to the contrivance of a grand jury? The fact alledged in the affidavit did not appear when the prosecution was commenced, and the affidavit reached the Attorney General too late. I will not, however, say, that if it had reached him earlier, it would have quashed the proceedings, neither will I affirm, that it would not have produced a *noli prosequi*; the affair is still in suspence, and I pledge my word that, as far as it lies upon me, it shall proceed according to law. This case shall be managed with the same reverence for the constitution that has directed other trials: other trials indeed have been called in question, but in my opinion very improperly, because the point is not before the House. Much has been said about the innocence of acts abstracted from evil intentions; in answer to which I shall only observe, that laws do not enquire whether acts imply guilt in the agent, but whether they produce mischief to others. With the morality of an act judges and juries have nothing to do; it is the tendency which gives them cognizance of it. An act which the law has determined to be pernicious is punished, that it may not be re-

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peated, the agent very often is not only innocent but meritorious *in foro conscientiæ*, as in cases of treason, where a man risks his life and fortune in what, by the mistake of an erroneous conscience, he imagines to be a good cause. It will scarce be affirmed, that the publication of libels should be permitted; and it will, upon a moment's recollection be seen, that the publication of libels can never be prevented, but by punishing the ostensible publisher, let his instrument or his intention be who or what they will. I have heard the case of homicide mentioned, to shew, that the intention must be taken into consideration, in order to determine whether the fact should or should not be punished, and that intention alone makes the difference; but this is a silly fallacy which will very easily be exposed. The fact for which the law inflicts punishment is not mere homicide but murder; and the law punishes murder, because it is the only species of homicide that punishment can prevent; not because it is the only species which implies moral guilt in the agent. If a man wilfully, and with a premeditated design, kills another to prevent his broaching a damnable heresy, he may not only be blameless but meritorious, with respect to God and his conscience, but he ought to be punished by civil government, that men may not be killed upon the same idle prêtence for the future. The killing the duke of Buckingham by Felton, and Henry the 4th by Ravaillac, were probably meritorious actions, in a moral sense, as the assassins fulfilled the dictate of conscience, however erroneous, at the risk of life; yet I suppose no gentleman present will pretend, that for this reason, Felton and Ravaillac ought not to have been put to death. Men are to be saved from the pen of libellers, as well as from the knives of Feltons and Ravaillacs, and therefore the ostensible publisher is to be punished as well as the murderer, however innocent, or even laudable he may be, as a moral agent.

Sir, much has also been said to shew that juries ought to judge of law as well as fact; but surely it would be a strange institution, that required a man to judge about what it is impossible he should know. If shoemakers, bakers, and taylors are judges of the law, why should money be wasted in fees to counsel, or why, indeed, should there be any such thing as a lawyer by profession among us. Away with your cases, your commentaries, your reports: away with all rules by which that which is determined to be law to-day, will be determined to be law to-morrow; let the opinion of twelve shop-keepers or mechanics, be the law of the hour, and let us lie at the caprice or folly, not of one tyrant, whose will may possibly be guessed from experience of his temper and disposition, but of half a million, erected into expositors of the law by turns, concerning whose determinations nothing can be known, nothing can be guessed. Happy state of public liberty! who can but love and reverence the patriots that are incessantly labouring to bring it about?

Mr. Serjeant *Glynn* agreed with his hon. friend who spoke last but one, that reports injurious to our courts of justice had gone abroad, and spread not only over the metropolis, but the kingdom, and observed, that they had not only been propagated in conversation, in papers, and in pamphlets, but had found their way into the Remonstrances addressed to the throne; it is therefore, said he, absurd to alledge, that they are but idle and groundless rumours, which being lightly taken up, will be lightly laid down, and, consequently, are unworthy of public notice; they have inflicted a wound, which cannot be healed but by a thorough and honest enquiry, which should, therefore, as the only remedy, be applied. He said, that Englishmen would never allow the power of juries to be retrenched, yet that rules of evidence and rules of law had been laid down by judges, which tended to subvert that power at the very foundation, and to render juries the mere engines of oppression in the hands of a temporising perverter of our laws. He observed, that a judge had laid it down as an established doctrine in law, that a master, in criminal cases, is answerable for the misdemeanors of his servant; for instance if a book or pamphlet is sold in a bookseller's shop, without the knowledge of the master, the master, in the opinion of a doctor of the law, was punishable: against this doctrine the learned Serjeant inveighed in very warm terms, he called it a monstrous absurdity, a glaring iniquity, contrary to the dictates of common sense, and the feelings of humanity.

He inveighed also with equal zeal against the doctrine with respect to juries; that if a man is charged with publishing a libel, they are not to enquire with what intention he published, but merely whether he published, and whether the libell

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ous expressions are applied as in the indictment: he said he was at a loss to determine whence this doctrine was derived, that it was not to be found in any code of natural law, and that the human heart must revolt at it, as criminality must depend upon the intention. He asserted also, that in this respect the law of England perfectly coincided with the law of nature; that he knew not any precedent to the contrary; and that if there was any such precedent, it was a bad one.

Mr. *Constantine Phipps* also replied to the Attorney-General, and said, that he thought the question before the House might be determined by every honest man of common sense, without any particular skill in the law considered as a science; that notwithstanding what had been said, he considered the power of the Attorney-General as uncircumscribed eventually and in fact, whatever it might be in theory and principle; for that, supposing him to be responsible for his actions, and amenable to justice in the abstract nature of things, yet that as he generally acted under authority, and by the advice of the ministry, it would be no easy matter to bring him to account, much less to punishment. The injured parties, he said, would always find it beyond their purse, and the House of Commons being the only resource that would remain, little could be hoped from the proceedings there, as in such cases they were always slow, and too frequently under improper influence. As he was therefore clearly of opinion, that such a power eventually subsisted, and that the subsistence of such a power was dangerous, he should vote in support of the motion.

Mr. Solicitor General *Thurlow* said, that he could not but consider the present motion, and the oblique reproaches cast upon the House, as mere expedients to attract the notice of the mob, and imitations of pamphleteers and newsmongers. That as the Attorney-General was not accused of abusing his authority, there did not seem to be the least colour of pretence for making it less. He insisted that all the prosecutions, which had been carried on by the Attorney-General, were extremely proper, if not necessary; and that if he had not filed informations, he would not have done his duty. He observed very justly, that the press had pushed its liberty to the utmost verge, and even gone beyond it; and that it would be absurd indeed, under pretence of befriending liberty, to give licentiousness a wider range. He absolutely denied, that the expounders of the law propagated false doctrine, or laid down false rules either of law or evidence: he said, it was needless again to expose the absurdity of confounding moral guilt, with civil offences; that human laws punished merely to prevent mischief; that the publication of libels was equally pernicious to society, whether the publisher was morally guilty or no; and that so was the commission of murder, and for that reason should equally be prevented by punishment. He also concurred with the Attorney-General, that the construction of libels belongs by law and precedent to the judge, and not to the jury, because the unlawfulness of libels arising from a positive institution, could not be determined by an uninformed understanding, however upright or acute. He acknowledged, that the rejecting of a juryman without a challenge from the parties was an act highly criminal; but said, the fact should be well authenticated before it was condemned. He said it had been imputed to a great judge, whom he knew to be incapable of such an action, and for these and other reasons he must put his negative both upon the motion and enquiry.

Mr. *Wedderburn* said, that the non-existence of any abuse of the Attorney-General's power at present, was no argument against the proposed amendment; but that on the contrary, a time of peace and tranquillity was the fittest for any alteration, as the minds of men would lie under no bias, and they would therefore act with more dispassionate and deliberate judgment. He observed, that if our ancestors had been so tenacious of old establishments, as never to have tried a new institution, we should not have had a constitution at present the envy of mankind. He observed also, that the power in question was not of very high antiquity; that it had been alledged to be as old as the monarchy, but that in fact it could be proved no higher than Edward the 3d. That different times require different regulations, and that what might be proper 400 years ago, might now be absurd and pernicious. He said, that the method of filing informations was more expensive, consequently more oppressive, than the common way of bringing the matter in question before a grand jury. That expence in a legal process was punishment before the proof of delinquency; and that

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the defence of the innocent should never be made difficult, under pretence of more effectually detecting or punishing the guilty. But his principal argument was, that the institution, whether equitable or not, whether constitutional or unconstitutional, did not answer its end. Its end, says he, is the speedy punishment of libellers; but before the Attorney-General goes half through the necessary process by information, he might have got the offender tried, convicted, and condemned, before the common juries: and for the truth of this, he appealed to every gentleman in the House, who was at all acquainted with the subject.

Mr. *Herbert Mackworth:*

Sir; much has been said, during the course of this debate, by gentlemen on both sides, concerning the case of Almon, either directly or by inuendo. As I happened to sit as juryman in that case, I shall take the liberty to say, that the gentlemen on both sides have misrepresented it. The evidence laid before the jury was, that a pamphlet containing a libel, had been sold at the defendant's shop. It was not sold by the master, nor was the person who sold it proved to be a servant. But it was said, that a person in Almon's shop could sell a pamphlet, which was Almon's property, only by performing the act of a servant, and that therefore with respect to that act he must be considered in that capacity. It has been asserted in newspapers and pamphlets, that we were misled by the instructions of the judge, with respect to the criminality of Junius's letter to the King, but nothing can be more impudently false. In this point our sentiments were exactly the same with those of the judge, we were unanimously of opinion, that the letter in question was a libel, atrocious and criminal in the highest degree; nor was there a single person among us who had the least doubt or hesitation in pronouncing that the authors and publishers merited the most exemplary punishment. There was but one subject of doubt and discussion; this was, Whether the defendant should be punished for an act, which chiefly implied guilt in another? and with respect to this point we certainly were influenced by the instruction of the judge.

I had my doubts, and I applied to him for a solution of them. He spoke with a clearness and precision, in which he has no equal; and he assured me, that the law always inferred guilt in the master from the *prima facie* evidence, where no contrary evidence was produced to destroy its force. In the case before us there was no such contrary evidence; we therefore thought ourselves obliged to act in conformity to the law, and gave our verdict accordingly; for the conscience of a juryman, if any conscience he has, obliges no less to observe the rules of law than of equity. I had indeed at last my doubts about the malignity of the publisher's intention; but whatever he might intend, the fact was committed, which it was the intention of the law to prevent by punishment, and which the law imputed to him; I did not therefore think myself at liberty to acquit the defendant, when he stood condemned by a positive position of our jurisprudence, and the punishment that he might incur, tended directly to prevent the mischief for which it would be inflicted. I should, however, be glad to see this point more clearly ascertained, and more generally understood.

With respect to the power and office of juries, nothing should be doubtful, obscure or perplexed. I should be glad, that the difference between the morality of actions and their tendency, between the guilt of the agent *in foro conscientiæ*, and his being liable to punishment by the civil power, should be expressly ascertained under the sanction of an express law. When this is done, the people will acquiesce without murmuring in the decision of our judges, and our judges will do their duty without incurring the reproaches and execrations of the people. The proposed enquiry I think just, whether our judges are culpable or not, and the arguments already advanced in favour of the motion seem to be conclusive in its favour.

Mr. *Edmund Burke:*

Sir; as the subject now before us appears to me to be of great importance, I shall not be content merely to shew my opinion by my vote; but, with the leave of the House, will shew the reasons on which it is founded. Several gentlemen have expressed a kind of superstitious reverence for the power of the Attorney General to file official informations, upon account of its supposed antiquity, as the father of Scriblerus venerated the rust and canker which exalted a brazen pot-lid into the shield of a hero. I hope to scour off the false marks of antiquity which have made this power venerable, as effectually

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as the honest housewife scoured off the false honours of the pot-lid.

But, Sir, we are told, that the time during which this power existed, is the time during which monarchy most flourished; and what then, can no two things subsist together but as cause and effect? May not a man have enjoyed better health during the time that he walked with an oaken stick, than afterwards when he changed it for a cane, without supposing, like the Druids, that there are occult virtues in oak, and that the stick and the health were cause and effect? Other gentlemen, with somewhat more appearance of argument, have appealed to the experience of past times for the safety, at least, of the people, during the existence of this power, and have asked, with an air of triumph, whether our constitution is now likely to be mended by the introduction of fanciful alterations to prevent evils in future times, from causes which have produced no evils in the past. I will not say that this reasoning has no weight, because I know that almost every question which can become the subject of debate, has, like Janus, two faces, one favourable to one party, and one to the other: superficial examiners therefore are easily imposed upon by the exhibition, first, of one, and then of the other. But those who look deeper than the outward appearance, found their opinion upon better grounds. Arguments enough have been advanced to prove that the exercise of the power in question is incompatible with liberty; how, ridiculous, then, is the pretence that it has hitherto been useful and necessary in a free government? The same arguments that prove it to be dangerous now, prove that it was always dangerous; and therefore no reason can be derived for its continuance from its antiquity.

The truth however is, Sir, that it is not ancient. I have not found it in the venerable treasury of ancient days, though my search has been patient and laborious; so far from tracing it up to Edward the 3d, I have lost sight of it in times not far from our own. Bracton mentions "actions popular," which, I apprehend, were founded upon libellous expressions, but actions popular are not the same as official informations, and Bracton's authority has not, as I remember, ever been called in question.

But, our adversaries, Sir, though beaten from every outwork, have a citadel in which they can securely take refuge, a Majority of Members: but this, like other places of safety, is by no means a post of honour. If we are not totally callous to the sense of shame, totally negligent of the public interest, we must agree to this motion, and either totally abolish this power of the Attorney General, or subject it to new regulations. If there were no other reason for this measure than that which has been suggested by one of its principal opposers, that the office is odious and suspected, every honest and reasonable man would give his suffrage in its favour; for what can be more opposite to sound policy, or indeed more absurd in itself, than to invest any servant of the state with a power which he can never honestly use, but at the expence of his reputation.

It has been said, that we are not pressed to this measure by necessity, and that there is no complaint of any late abuse of this power; that we are not pressed by necessity, if true, is one of the strongest reasons that can be urged for the measure in question, for will any gentleman say we should wait for the pressure of necessity; are we not to cast from us a scorpion till it is necessary to apply remedies to cure the mischief occasioned by his sting? But that there is no ground for complaint of any late abuse of this power I flatly deny: it was abused, and most flagitiously too, in the case of John Almon, that has been just cited: why was he singled out for execution when there were so many others in the same predicament without equal excuse. Almon's guilt, if any guilt he had, was merely nominal: Why was not the original publisher, or some one of the many that had re-published Junius's Letter before it was published by Almon, first brought to jnstice? Why was Almon first encouraged to publish the supposed libel by the impunity of those who had published it before him, and then seized as the victim of ministerial vengeance? Almon was singled for prosecution, on this occasion, by the malice of those who wished to punish him for other things which did not put him in their power, by which he broke no law, and for which, in a free country, he ought to have been enabled to set private resentment at defiance. He had, in certain journals, published certain anecdotes, which some people, high in office and power, wished, and not without reason, to have been buried in everlasting oblivion.

But this power, even in this instance in which it has been abused, has not been

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able to bring the supposed criminal to legal punishment, however it may have harassed and distressed him in the struggle which he made against it. Of the strange verdict which was procured against him the courts do not dare to make any use, and the only cause which the Attorney General has been able to carry against libellers he can turn to no account. Can there, Sir, be a stronger reason for abolishing his power? I will not, indeed, pretend that this power was always equally ineffectual, though it was always liable to the same abuse. In the reign of George the second there were no such differences of opinion between judges and juries, no such opposition to the authority of government. Shebbeare was, without difficulty, punished with imprisonment and pillory, and many other delinquents severely smarted under the scourge of the law; and so lately as the beginning of the reign of his present Majesty, when, trusting to his own benign and gracious disposition, the minds of men were not soured by the interposition of undue influence, the law was still invested with its salutary terrors: the 45th Number of the North Briton, a spiritless though virulent performance, a mere mixture of vinegar and water, at once vapid and sour, brought down legal punishment upon the publisher by the free untutored determination of a jury.

What, then, Sir, has wrought so great, so sudden a change in the temper of the people? What is the reason that they will not now concur to punish as libels, such writings as they deemed libellous then? Are they disposed to encourage slander, and are they suddenly become the abettors of falshood and malice? This surely will not be pretended; how, then, shall we account for the punishment of Shebbeare, and the impunity of Junius? There is only one answer: the people then concurred to punish attacks upon government, because they believed government to be their friend; and they now favour attacks upon government because they believe it to be their enemy: and to whom do we owe this popular opinion so injurious to public quiet and prosperity? certainly to a corrupt, an impotent, a treacherous administration: our ministers are the grand criminals, and it is their malversation and encroachments upon the constitution that have roused the spirit of opposition which tramples indiscriminately upon all law, order, and decorum, in the fury of its zeal to maintain liberty and independence, which are so manifestly, so rudely attacked. Till these ministers are removed and punished, the land will continue to "be filled with violence," and confusion and anarchy will have no end. Every other expedient for restoring peace and order has been tried in vain; would it not be worth while to try the effect of this measure, as the only one that at present seems to afford a chance of success?

Mr. Attorney General *De Grey:*

Sir; I will not endeavour to follow the hon. gentleman who has just sat down, through all the frolicks and gambols of his rhetoric: he shall, unreproved by me, hunt his butterfly through all the weeds and flowers that diversify the chace. He may begin a speech with reasons for taking away a particular power from the Attorney General, and end it by asserting that the measure signifies nothing except his friends are brought into administration; he may in one sentence pretend that the power is wholly useless; and in another, that it has always till very lately been effectual; he may alledge in one breath, that our courts are upright, and, in the next that they are corrupt; he may do any thing but advance false facts, with a view to calumniate the innocent, and state cases which have no existence but in his distempered imagination. He has told us, that Almon's prosecution was malicious and oppressive, and that after procuring a verdict against him, the courts did not dare to use it. And I must tell him, that neither of these assertions have the least foundation in truth, and to speak in the genteelest terms, that to impute actions to sinister motives, from the mere suggestions of his own fancy, is to treat a gentleman injuriously.

Sir, the trial of Almon preceded that of the original publisher, and the other delinquents, merely through accident. As many informations as could be conveniently got ready, were at the same time filed against the transgressors, and the judges, after this process was finished, happened in the course of business, to sit for the hearing of causes at Westminster, before they sat in the city. This is the true state of the case, and all the malice and oppression which he sees, or thinks he sees in it, he is welcome to make the subject of another oration whenever he thinks fit. As to his assertion, that we dare not pass sentence upon the verdict,

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I can only tell him in the face of this House, that Almon shall be called up to receive sentence to-morrow morning. It is true, that after he had attended upon a former summons, he was told that he would not be wanted on that day. The judges being either not agreed in their sentence, or being by some other cause prevented from concluding the business, I would not suffer the delinquent to appear before them, lest by a rule of court they should be obliged to keep him in custody till the sentence was passed, which I thought would be injurious to his trade and character: so that an act of lenity and compassion to the criminal, is made an occasion of insult to his judges, who are reproached with having obtained a verdict, upon which they do not dare to pronounce sentence. The Attorney-General, Sir, has done nothing of which he needs to be either afraid or ashamed: he misrepresents the actions of no man, he traduces no man's character, neither his actions nor his words have been such, as might justly call a blush into his cheek.

Mr. *Burke* replied, that he did not want to fix a stigma on any private character: he wanted to shew there was malice somewhere, and that he now found little reason to alter his opinion; he acknowledged the account which had been given of Almon's being first tried to be satisfactory, but he said no reason had been given for his being tried at all; this he still imputed to malice, and insisted, that the share which Almon had in the publication of Junius's Letter, was so small, that no man of common sense could suppose he was, on that account, marked out as an object of punishment, but that there were other causes neither so specious nor ostensible. He appealed to the House for the truth of this; but nobody thought fit to reply.

Mr. *Dunning*:

Sir; as the subject now in debate was precipitately brought on, I cannot pretend to treat it with that accuracy which it merits, but as it appears to be of the greatest importance, I must offer such unpremeditated observations upon it as occur to my mind, and I the less regret the want of time to consider it more maturely, as I think there is but one argument among those that have been brought against the motion, which has not been fully refuted. It has been said, that both Houses have frequently addressed the King to direct his Attorney General to prosecute libellers and defamers; that in pursuance of such directions, several prosecutions are now actually commenced, and that to agree to this motion is to annihilate or abridge the very power which we have employed, and which we have found it necessary to employ, to carry our own designs into execution. To this I answer, though it is true that parliament has employed this power, it may, notwithstanding, and, indeed, ought to be annihilated, because it never answered the purpose for which it was employed: the laws are either capable of supporting themselves or they are not; if they are capable, our interference is unnecessary, if they are not, it will always be ineffectual, and not only ineffectual but odious; we shall be considered as the mere tools of a weak ministry, who are obliged, upon all occasions, to borrow our strength, and who, at the same time, render us cheap, by applying it to useless or unworthy purposes. There is such an appearance of oppression in levelling the whole legislative power against an individual, that it will, and, of necessity must, be for ever odious to the people.

It has been proposed to modify the Attorney General's power, either by allowing the defendant to shew cause in a court of justice, why an information should not be granted, or by previously subjecting the affair to the cognizance of a grand jury: to this it has been answered, that there is no need either for a court of justice or a grand jury to interfere, where the grand inquest of the nation, a body much more respectable than any grand jury, has decided the point and found a true bill, that is, a sufficient ground for a prosecution. But I trust, that the futility of this answer has been shewn already, for it is certainly absurd, to refer from grand juries and the courts of justice to parliament, in a case in which parliament has never acted with effect, except to render itself odious and suspected.

But allowing that the power in question should be taken into consideration, gentlemen have told us, that this is not a proper time: but the reason which has been given to shew that the time is not proper, does, in my opinion, prove that it is: it is said, that we are in a bad humour, and by what measure is a bad humour more likely to be removed? That we have a bad humour is indeed too true, and such a one as will not yield to a slight

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remedy; it is obstinate, it is malignant; I will not say that the opinions which have been propagated to the disadvantage of our justiciary courts are true, but I will say, that there is something at least doubtful in that principle of law, which infers criminality from the single fact of publication, or the *prima facie* evidence, and this is a sufficient ground for enquiry. We ought also to make this enquiry in order to determine how far juries are to judge of the intention. In a word, we ought to draw the line between the province of the judge and jury; this will still the murmurs and quiet the jealousies of the people, and, therefore, as a friend to them, as a friend to the judges, and as a friend to this House, I shall give my voice for the enquiry.

Lord *Frederick Campbell:*

Sir; if it was not for the loss of time which ought to be applied to important purposes, it would be very diverting to see gentlemen of grave and respectable characters puffing and blowing like Achilles in the Iliad, in the chace of a shadow. We grow angry and we talk loud, but there is no subject of rational debate before us. If any man intends to arraign the conduct of our judges, in God's name let him stand forth, but let him chuse a proper time: do not let hints and inuendoes, vague reports and popular clamours interrupt and embarrass the proper business of this House, or divert its attention from what is properly before it. If the Attorney General has abused his power, does it follow that the judges have betrayed their trust? or if the judges have betrayed their trust, does it follow that the Attorney General has abused his power? I remember the time when some deep metaphysicians, whom I have in my eye, exclaimed with great vociferation, against considering the crimes of one man collectively, as the foundation of his expulsion: what can have induced these gentlemen to consider collectively the supposed crime of two men, or more properly of two parties: why will they blend the supposed crimes of the Attorney General and the Judges, when they were so very zealous to separate the crimes of an individual? Why, but that they are pushed on by passion, by prejudice, by a spirit of faction, and possibly of self-interest, with a violence and precipitation that overlooks all propriety and consistency of character, and equally disregards reason and absurdity, falshood and truth, taking all indiscriminately that happens to lie in their course, like a blind horse stung by the flies, who rushes forward, and neither slackens his speed nor changes his course, though a wall or a precipice is within half a furlong of his head. If the verdicts to which these outrageous lovers of justice and the constitution allude, were unconstitutional, why was there no motion for arrest of judgement? why not the point submitted to the consideration of the twelve judges? what is become of demurrers and new trials? how has it happened that appeals to higher tribunals have been forgotten? If any of these measures had been taken, we might have had some object for our consideration: but at present, instead of doing business, we are invited to play at blindman's buff; I hope, however, that we know our duty better than to join in such boyish trifling: we have concerns upon our hands in the highest degree serious and important, and to these let us apply, with the diligence, seriousness, and perseverance which they demand.

Mr. *Thomas Townshend:*

Sir; I know of no subject more serious and important than the enquiry which is now before us, and am therefore heartily disposed to treat it with seriousness, diligence, and attention; it includes nothing less than the restoration of the constitutional power of juries, which certain judges are said to have infringed. Can it be said that we have no object before us, when it is allowed that juries have been forbidden to take cognizance of the intention with which libels are published? Why are they not then forbidden to consider the intention in robbery and murder? Is not the jury as competent in one case as in the other? He whom natural sagacity or acquired knowledge has not qualified to determine the guilt of a libel, is not qualified to determine with respect to guilt or innocence in cases of life and death. For my own part, I always understood that juries were the sole judges in all criminal cases, and that the magistrate on the bench, was nothing more than an expounder of the law; a man placed by the public, to assist and direct them in intricate and difficult cases: nor am I at all apprehensive, notwithstanding the horrid phantoms that have been held out to us, that the law, in the hands of an honest jury, will become uncertain and confused: human nature and common sense are in

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all places, and at all times. essentially the same: the decision of a London or Middlesex jury to-morrow, will, I dare say, be perfectly consonant to the decision of a London or Middlesex jury that day twelvemonth, and that day twelve years; for how else could the principles of our criminal law in other cases have remained the same? There is no inconsistency in the verdicts passed by juries of different counties in theft or murder, when the cases are similar; and why then should we fear inconsistency in their verdict upon a libel? If the gentlemen on the other side cannot tell us, let them allow that the late encroachments of judges upon the rights of the jury, call aloud for parliamentary interposition.

When Mr. Townshend sat down, lord Palmerston got up to tell the House, that he had voted for the same motion, when it was made by Mr. Calvert, and seconded by Serjeant Hewit, four or five years ago,* but that now he had found reason to change his opinion, and would vote against the motion. Mr. Phipps rose up again and expressed himself in such terms, that lord Palmerston, apprehending a quarrel, called him to order.

Lord *North*:

I have attended with great diligence to what has been offered on both sides of the question in the course of this debate, and am sorry to say, that great part of it has been a total waste of our time; a new *ignis fatuus* has every moment been started on one side, and pursued on the other, till both have been equally perplexed and bewildered, both hurried, heated and fatigued, while but little progress has been made in the right track, so that the end of our course is almost as distant as ever. Much time has been spent in debating whether the power of the Attorney General to file informations is ancient or modern, though the fullest proof, on either side, would still leave the only question in which we have any concern undecided, "whether it be good?"

Much time has also been spent in laboured declamations, to prove that this power is always exercised to restrain liberty; I wish these gentlemen would shew what power of government is or can be directed to any other purpose. To restrain liberty, is the very essence and end of all government, which became necessary when a state of nature was improved into civil society, merely because it became necessary that natural liberty should be restrained. It is by the restraint of natural liberty that the weak are protected against the strong, that property is secured against the thief, and life against the assassin. There is, however, such a thing as civil liberty, which, I believe, our bellowers against the powers of government, are neither willing nor able to define; let me then acquaint them, that civil liberty subsists wherever natural liberty is no farther restrained, than is absolutely necessary to secure the advantages of civil society. Whatever restraint is necessary for this purpose, is compatible with the most perfect civil liberty, and the liberty which is compatible with these restraints, is that alone for which honesty and common sense can be advocates. As these restraints are more necessary in one country, and at one time than another, natural liberty may, and must be circumscribed within narrower bounds in one country, and at one time than another; yet civil liberty may be kept equally sacred and uninfringed. Thus it has happened, that all attempts to recover natural liberty from the restraints which are necessary to secure the advantages of civil society, have either ended in the dissolution of all government, or in a more rigorous and extensive exertion of its powers. Liberty, carried beyond the bounds within which the interest of civil society requires it to be confined, is licentiousness, and the natural and necessary consequences of prevailing licentiousness in the members of any state or community, must be, either anarchy, or a government less lenient and gentle. If no power of government can be defended which restrains liberty, government itself is wholly indefensible; if any power of government restraining liberty for the common advantage of a civil community can be defended, every power, the exertion of which is absolutely necessary for this purpose, may be defended, and the only enquiry concerning the powers of government should be, whether the exertion of them is necessary for this great purpose, or not.

At this time, I am sure, there can be no pretence for relaxing the reins of government, or annihilating any of its power. When the spirit of your horse renders it difficult to govern him, or when by some cursed insect he is stung into madness, would you think it proper to remove his curb, or let the reins, which you had been

* On the 4th of March, 1765. See p. 40.

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used to hold in your hand when he was in better temper, lie loose upon his neck? And when the people are by some sudden ferment, become impatient of controul, and are perpetually excited to oppose, as tyrannical, those very powers, under the exercise of which, their prosperity and freedom have been the envy and admiration of the world, by a set of needy scribblers, detestable for their malignity, and despicable for every thing else, shall we take away that power from the Attorney General which he has been suffered quietly to possess when its exertion was less necessary? and shall we do this without the least proof, that this power, however provoked, has in a single instance been abused. Far be it from me to wish any new restraint laid upon the press; but surely this is not a time to give it new licence. The wisdom of our ancestors is consistent in nothing more than their care to preserve the several constituent parts of our government distinct, and balancing them equally against each other. That inestimable gift which they have handed down to us, our political constitution, we shall not hand down to our posterity, if we suffer this distinction to be lost, or this balance to be destroyed; a mischief, which will as inevitably result from taking part of the weight from the regal, and placing it in the popular scale, as from the contrary. If there is a propensity in the people to encroach upon the crown, we, as the faithful guardians of the constitution, should oppose it with the same steadiness, and upon the same principles, as we would a propensity in the crown to encroach upon the people.

It has been said, that the power in question is ineffectual; but the present opposition to it is alone an irrefragable proof of the contrary; it certainly operates *in terrorem* at least; and if it did not render slander and defamation more dangerous than they would be if no such power subsisted, it would not have been attacked by those who have long made the public papers a vehicle of all that malice and envy, and faction, and self-interest can invent, against private characters and public measures. They and their associates have been punished by the law, and they would fain repeat their crimes with impunity; but this is not all, their view is not only safety for the future, but vengeance for the past: yet their revenge is like that of children, who, if they cannot wreak it upon the hand that has chastised them, will run the risk of new punishment, by burning the rod. The law is beyond the reach of our patriots, though they are not beyond the reach of the law? and therefore they turn their malice against its instruments, and vilify the Judges and the Attorney General.

Part of what I have now offered against abridging or destroying the power of the Attorney General, will operate with equal force as reasons against the enquiry into the conduct of the Judges. But I have another argument against both. They will by no means answer the end which is proposed, though not intended by the advocates of these measures, the removal of the doubts and jealousies which are said to subsist among the people. It is the known purpose and interest of these gentlemen to foment and not to allay popular doubts and discontent; they have no expectation of plunder but from a storm: if government is shipwrecked, they hope to run away with part of the freight; but an easy gale, and peaceful seas must leave them to the agonies of despair. If the motion which has now been made should be carried, these gentlemen could derive neither place nor pension from its success, and therefore would be still resistless and turbulent; would still suggest new matter of complaint, and find new pretences for invective and abuse. They will now and then be betrayed into a more direct and plain declaration of their principles and pursuits, and will tell us, as they have just done, that the removal of the ministers is their great object; that "till the ministers are removed the land will be filled with violence and confusion; that no other expedient for restoring peace will succeed, and that till room is made for themselves in the administration, government will never peaceably be administered."

But let me tell them, if the people are in a bad humour, subverting all order, and opposing all law, it is neither owing to their own depravity, nor to the misconduct of our courts, nor to the malversation of ministers. Neither the ministers nor the courts have done a single act which they cannot justify; but it is owing to the diabolical guile and diligence of our political impostors, of whom it may be said, that they travel sea and land, to find one proselyte, and when they have found him, they make him ten-fold more a child of hell than themselves. Can any gentleman here recollect a time when the emissaries of mischief were equally busy? The press

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so swarms with libels, that one might be tempted to conclude every single pen, every drop of ink, and every scrap of paper in the kingdom was manufactured into sedition and abuse. The first thing that we take up is a libel, and the last thing we lay down is a libel; our eyes open upon libels in the morning, and our eyes close upon libels at night. In short, libels, lampoons, and satires, constitute all the writing, printing, and reading of our time.

To these arts must be imputed the differences which at present subsist between judges and juries; and to these alone it is owing, that the letters of Junius have not shared the fate of the North Briton. Truth, however, and common sense at last will prevail; and though Junius has owed an escape to the spirit of the times, which he had no right to expect from the justness of his cause, that spirit will at length act in his favour no more. When the feculence of bad humours has worked itself off, the leaven of Junius will produce no new fermentation; he will then be despised for the very falsehood and malice that now gain him readers; his pertness will be no longer mistaken for wit, nor his impudence for spirit. The assassins of reputation, and the libellers of government will be punished with contempt in this House, and with the pillory in Westminster-hall; for time will very soon discover that their conduct is equally foolish and wicked.

Sir *William Meredith* spoke principally against considering the motion and enquiry together, which he said were two questions wholly different and unconnected; that if the Judges and Attorney General had erred, it was not so much as pretended that they had erred in conjunction; and that the hon. proposer of the motion never meant to have the enquiry engrafted upon it, but on the contrary, intended to reserve it for a future opportunity: it could have been started, he said, with no other view than to impede their progress in the affair, which was regularly before them; a view, which it had but too well answered, having fruitlessly consumed much time, and hitherto prevented their coming to any determination.

He said, that the power of the Attorney, whether in itself good or bad, was incontestibly odious, and that for this reason alone, it ought to be abolished: he observed, that the Act of the 3rd of William 3, was itself only an amendment, giving to the Attorney General precisely what it took away from the Master of the Crown-office; and said, that in his opinion, if our ancestors had understood the full extent and meaning of the latter clause, they would not have left it as it stands at present. He proposed, therefore, that we should correct their oversight, and restore the constitution in so essential an article.

He took notice of the words that had been dropped by Mr. Herbert Mackworth, and said that they were sufficient to excite horror in every feeling breast, and render the people outrageous; he represented Mr. Mackworth as saying in effect, that though he was inclined to think the culprit innocent, he had been influenced by the law of the judge to find him guilty; and wished he had at the same time told the House his oath; he was sworn, says he, to give a true verdict according to the evidence, yet has declared, that though the man was not reached by the evidence, he gave him up to be punished by the directions of the judge. The artifices of which this instance had unexpectedly been brought before them, he said, were very alarming, and called loud for enquiry, which every honest man would give his voice to bring on.

Mr. *Cornwall* in answer to that part of sir William's speech which censured the coupling an enquiry with the motion, said, that having heard much on the subject in conversation, and read something of it in a pamphlet which had been put into his hands in the country, he was determined to bring it into the House sometime in the session, and thought this a proper opportunity; that for this reason he had proposed it, as the ground-work of the motion, without any view of obstructing the proceedings of the House upon it. He concluded by saying, he was glad that the proposer of the motion intended to prosecute the enquiry, and declared, that however he might differ with him in the mode of proceeding, he would give the measure all the assistance in his power.

Mr. *Wallace*:

Sir; the gentlemen who have proposed the abridgment of the power of the Attorney General, have been rather parsimonious, in laying before the House the particular benefits that are to result from the measure. They have dealt much in general terms; have declared that it would be favourable to liberty, that it would restore the constitution in an essential arti-

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cle, and correct the mistakes of our fathers. The words liberty, constitution, and independence, are indeed words that convey ideas of the utmost importance; but I am sorry to say, that it is of late become a custom to use them, not as conveying ideas, but as forming a spell; as having a kind of talismanic power, to effect purposes which the powers of reason and nature can never accomplish. One gentleman, however, an hon. friend of mine, has proposed, that when the proceedings are commenced by the Attorney General *ex officio*, the defendant should, as in other cases, be allowed to shew cause why an information should not be granted; this regulation, he says, would prove an unspeakable benefit; but to whom would this unspeakable benefit accrue? Not to the nation, but to its enemies the libellers. This proceeding would be giving them warning to make their escape, and elude the pursuit of justice. If this wise regulation were to take place, it would be impossible that a libeller could ever be punished; they would betake themselves, like Moore, to some dark retreat, where being effectually concealed, they would perpetrate more flagitious, and more daring mischief. Malignity and dulness would deride honest diligence and ingenuity, and gain an easy subsistence by abusing every thing that is venerable and sacred, and gratifying the spirit of contumely and licentiousness, which is gone abroad among us, by railing against "our most gracious King, and all that are put in authority under him," in such compositions, as upon any other subject would never be read. Thus abused, the press would become the ruin of literature as well as liberty, of which it is naturally the support, for nothing so certainly subverts liberty as the abuse of it; nothing so effectually destroys learning as the deluge of nonsense and rancour, which is now overflowing us, from the cobler and the porter in an alehouse kitchen, to the petit maitre of fashion, under the hands of his friseur.

I have one word to offer concerning the enquiry into the conduct of our judges; one of its principal champions is a learned serjeant, and the reason which he has urged with great ostentation of patriotism in its favour is, that encroachments have been made upon the constitutional power of juries. But how shall we account for his becoming so suddenly jealous of the prerogative of juries? It is but lately that he acted from very different principles: a jury gave a verdict at Guildford against one of his clients, an atrocious and notorious libeller; and how did this patriotic, this constitutional serjeant, this champion for juries, act upon the occasion? Did he acquiesce in the verdict? Did he submit with silent reverence and respect to the power which he now pretends to worship? No, this bulwark of popular prerogative, this brawler in the cause of liberty, this supporter of the Bill of Rights, set the sacred authority of a jury at naught, and appealed from their determination to that of the court; to the very court, and the very judges whom he now arraigns for circumscribing their power! The same man, who urged our judges to take law from a jury into their own hand, is now clamourous against them for taking the measure. Is this acting upon principle? is this consistent? is this honourable? is this honest? I abhor attacks upon individuals, and for that very reason I am now so explicit; is this a paradox? I abhor murder, and for that reason, I would hang an assassin. What would be a crime against the innocent, is a duty against the criminal; against such characters as I have now exposed, the law of retaliation should always be enforced; an eye for an eye, and a tooth for a tooth, is the only expedient by which such Pharisees can be put to silence.

Mr. Serjeant *Glynn*:

Sir; as I have been now so freely charged with inconsistency of conduct, I take this opportunity again to declare, that no man can have a greater veneration for juries than myself; that I believe them to be the best securities against the oppressions of the crown, and that if it had not been for them, we should not have been now discussing popular rights in this House. The decision of a jury in the case of the Seven Bishops, saved the nation; and I should have no pretensions to the name of a friend to the constitution, if I encroached upon their powers, or explained away their privileges; but surely there are cases in which the jurisdiction of a jury is not competent, and I hope that in such cases, I may, without inconsistency, refer to the court. The case to which the hon. gentleman alludes is one, and is very different from that in which I have complained, that the rights of a jury has been infringed. The cause that was tried at Guildford, was upon an action upon

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the case, which depends upon a point of law, and which, therefore, was not cognizable by a jury. I have always asserted, that a jury ought to enter into the whole merits of the case before them, to go into the general issue, and give a verdict accordingly; but never, that when a difficulty in law arises they are the proper judges: if I had not held the courts to be the depositaries and expounders of the law, how could I approve of special verdicts, which are so frequent and so constitutional? A special verdict, Sir, is nothing more than an appeal from the jury to the court, or rather an acknowledgment of the jury, that they are unqualified to determine the question before them: and the case which was determined at Guildford, was involved in a question of law, of which they were, and ought to have acknowledged themselves unqualified to judge: I therefore acted consistently and constitutionally, when I advised my client to adopt the only method of defence that remained. But suppose that I had believed the measure, which I advised my client to take, to be unconstitutional, and an encroachment upon the province of juries, will the hon. gentleman blame my conduct as an advocate? has he never pleaded against his own private sentiments? has he never given advice in Westminster-hall which he would not give in this House? When I come hither, I lay aside the advocate and assume the senator. I advance nothing but my real opinion, nothing but what is dictated by my reason, and approved by my heart: and since I am provoked to it, I now declare my genuine sentiments of our justiciary courts. I now declare that they are not blameless, that they have been guilty of misdemeanors, and that there are just grounds for the proposed enquiry. Nothing but preventing a fair examination, will prevent this from appearing with undeniable evidence; and upon the truth of this assertion, I stake my whole credit with this House. The hon. gentleman has been pleased to justify his attack upon my character, by supposing that I had rendered it not only lawful but necessary, as felony and murder render homicide lawful and necessary in the hangman, which would otherwise be murder. I shall not envy him the character he has been pleased to assume; but when he talks of retaliation, he should remember, that it can never take place as a law between a criminal and his prosecutor. The criminal can derive no right to hang the prosecutor, from the prosecutor's endeavour to hang him, neither can he or his friends derive a right of defaming me, from discovery of their guilt, with a view to bring them to justice.

Mr. *Wallace:*

Sir; it has long ago been justly and shrewdly observed, that there being more than one reputed remedy for a disease, is a certain sign that all of them are ineffectual: if any one had been certain in its effect, a second would never have been named. From the hon. gentleman's mode of defence, a consequence may be drawn not more favourable to his reasons: if he had been satisfied with his endeavour to shew that his conduct was consistent, he would not have endeavoured to justify it upon a supposition that it was otherwise; there is a proverb about two stools, which I might apply upon this occasion with great propriety: the gentleman asks with an air of triumph how he can approve special verdicts, if he supposes juries to be competent in all cases? I readily answer that I cannot tell: they seem to me to be wholly incompatible; but the misfortune is, that to reconcile them is his business and not mine. If I was disposed to assist him in this dilemma, I would recommend it to him to allege, that a special verdict is an appeal by the jury, and not from a jury; and that the law does not preclude a jury from taking advice of the court when they themselves think it necessary, though it renders their determination final when they do not. But, alas! this, though it may give colour to the supposition, that a jury may with propriety bring in a verdict special, though they have in all cases a right to find generally for either party; it will not at all tend to shew that when the jury at Guildford had taken upon them to judge of the question, without referring to the court by a special verdict, he had a right to appeal from their judgment, consistent with his own declarations concerning their office and power. It is surely one thing for a jury to refer to the court for advice, and another to appeal from their judgment, in a point which they determined without supposing that they needed any. If the jury are judges of law as well as fact in one case, they are judges of law as well as fact in all, except when they voluntarily wave their right by finding their verdict special: I insist upon it, that the jury was as competent in Horne's

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case, as in any of the cases in which he would have allowed them to go into the genuine issue; and that in the trial at Guildford, there was no point of law more intricate or obscure than the point of law which has produced the out-cry against the judges. The judges, in both cases, acted right, upon my principles, but upon his principles, the measure which he recommended them to take, was wrong.

The learned serjeant being now deprived of one of his stools, let us see how he will keep his half seat on the other; he says, that in Westminster-hall, he is an advocate, and that in this House he is a senator. There is a story, I think, of a certain bishop, who on some occasion had acted in a military character, and having contracted the custom of swearing, was reproved for it: his reply is said to have been, like that of the serjeant, 'that he swore not as a bishop but as a colonel:' 'but,' said his monitor, 'when the devil fetches away the colonel what will become of the bishop?' There is, I think, great difference between making the best of a bad cause for a man who is not allowed to plead for himself, and giving advice contrary to general liberty and the constitution, after a cause has been justly and legally determined.

Either the question at Guildford was justly and legally determined, or it was not; he that says it was not, must adopt the principle which will justify the judges in the case of Almon; he that says it was, must condemn the serjeant's appeal, in the case of Horne; supposing the measure to be unconstitutional, the serjeant's character must suffer as a man, not less because he did wrong in Westminster-hall, than if he had done wrong in this House. I have no notion of dividing a man from himself: he that acts contrary to his conviction, and would injure the rights of his fellow-subject, and the constitution of his country in any place, is unworthy the character of an honest man, whether at the time he is called an advocate or a senator; whether he is in Westminster-hall or St. Stephen's chapel, honesty is the same in all places; and, from wheresoever a man leaves it behind him, he will be followed by disgrace.

Mr. *Dunning* then got up and stated the matter at Guildford. He said, that the jury acquitted the defendant of a libel, but found him guilty of defamatory words. That Mr. Serjeant Glynn's appeal from the jury, arose from a point of law, the question, Whether constituents when assembled to instruct their representatives, have not a right to utter their sentiments freely, and censure as they think proper? With respect to which question, the jury was not competent. But he said nothing tending to shew, that a jury could be allowed competent in the case of Almon, consistently with the principle upon which they were denied to be competent in this.

Mr. *Rigby*:

Sir; I have sat with great patience; and I confess, with great comfort, during the debates of the learned gentlemen of the long robe, which have taken up so much of our time; my comfort arises from finding, that I am not much a loser by the want of their learning and knowledge, for there is not the least agreement of opinion among them, which can only arise from their being equally liable to error and mistake with such ignorant and unlearned men as myself. I have a great comfort too, in reflecting, that no authority is established to which it would become me implicitly to submit, but that I may claim my right of private judgment without presumption, and exercise it without danger. Let me then observe, for the benefit of my unlettered brethren in this House, that one point has been universally admitted; it appears to be an established and uncontroverted principle, that the practice of the Attorney General, in filing informations *ex-officio*, is at least of so long standing, as to be immemorial, that it is founded in the law, and is a part of the constitution as it now stands. We are now going upon a question, whether in this particular the constitution should be amended; and I would only recommend it to gentlemen, to reflect before they determine in consequence of the curious proposal that has been made us to new model the power of the Attorney General, that undenied by any one single opinion, it is determined to be, as it is now exercised, legal, fundamental, and of unquestionable authority.

After this speech the question was clamorously called for; but when the Speaker rose to read it, Mr. Pownall desired to be heard: the Speaker having again sat down,

Mr. *Pownall* observed, to go immediately to the question, would be to admit, what the honourable gentleman who spoke last had advanced, that the power of the Attorney General was, undenied by a single voice, legal, fundamental, and of unques-

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tionable authority. He said, that he was himself a living refutation of that opinion; that his voice was dissenting, and that he absolutely denied the legality and authenticity of the power in question. He offered to shew, that the exercise of it was neither legal nor constitutional, neither authorized by the common or the statute law, except where the process is specially directed. He affirmed, on the contrary, that our law neither acknowledges nor knows any mode, by which a supposed criminal can be put upon his trial, but that of indictment or the presentment of his country. He proceeded to the following effect. The very mode of information is a process in the civil law, and from the practice of the civil law it is borrowed. Information under the name of suggestion to the king is indeed of ancient use, but it was never a mode of proceeding in the King's-bench or courts of law. It was a proceeding before the king in council, and was the rise of the Star-chamber, as appears in the statutes of Edward the third now upon your table; but it was never admitted in the King's-bench till the establishment of the Star-chamber, in the time of Henry 7. Since that period, there are some precedents, but before that period the most learned of the long robe cannot produce one.

Here some gentlemen intimated, by shaking their heads, that Mr. Pownall was wrong, and the question was again called for. Mr. Pownall took notice of the intimation, and called upon those, who gave signs of dissent from what he said, to prove the contrary; but the question was still called for, and being at length put, the House divided. The Yeas went forth.

Tellers.

Yeas	Captain Phipps Mr. Whately		72.
Noes	Mr. Dundas Mr. Cooper		164.

So it passed in the negative.

Debate in the Commons on Serjeant Glynn's Motion for a Committee to enquire into the Administration of Criminal Justice, and the Proceedings of the Judges in Westminster Hall, particularly in cases relating to the Liberty of the Press, and the Constitutional Power and Duty of Juries.]* December 6. The House was moved, that the entry in the Votes, of the 14th day of November last, that the Grand Committee for Courts of Justice do sit every Saturday in the afternoon, in the House, might be read. And the same being read accordingly;

Mr. Serjeant *Glynn* spoke thus:

Sir; when any dangerous innovation threatens the constitution, it is the duty of every Englishman to take the alarm, and to guard so invaluable a possession. It is an inheritance left us by our forefathers, and we ought to transmit it undiminished to our posterity. Not only our own interest, but that of future ages, is concerned; and if, through indolence or timidity, we relinquish the former, we cannot abandon the latter without impiety. If the charges, which I am going to state, are well founded, this is at present the case. The palladium of our liberties and properties is undermined, if not subverted. It becomes us, therefore, to be vigilant, and to check encroachment wherever it is found. Unfit, as the infirmities of my body make me, for taking the lead in this affair, yet I could not persuade myself to be wanting to my country in such an essential cause. If I should not answer her expectation, nor that of my friends, they must take the will for the deed; for, however weak the flesh may be, the spirit is strongly inclined to their service.

A report is gone abroad, and seems to have gained universal credit, that the judges of Westminster-hall are unfriendly to juries. It is not only insinuated, but confidently affirmed, that they encroach upon the constitutional power of juries, and lay down false law, in order to mislead them in their verdict. Is not this a crime of the first magnitude? It cannot be denied. I have heard it asserted, that if ever the liberties of this country are lost, they must be lost in Westminster-hall. Ought not we, then, to be very jealous of any new practices which prevail in that sanctuary of law? Nothing can be more evident. We ought frequently to inspect the conduct of our judges, and not to leave the order which has been now read, a mere idle form, without virtue or energy. Our ancestors have set us many examples of this sort. They frequently reprimanded and punished the misconduct of judges. It would be superfluous to produce instances; they must crowd upon the memory of every man that is conversant in our history. In the reign of Al-

* This important Debate is taken principally from a pamphlet entitled "*Vox Senatûs*" (the speeches in which were reported by Mr. William Woodfall), and from the London and Gentleman's Magazines.

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fred the great, forty of them were hanged. This precedent I do not mention as an example for your imitation. All I mean, is to shew you that there is in judges no peculiar sanctities to secure them from the frailties of other men. Their conduct, therefore, ought to be narrowly watched. The more important their station, the more active ought our jealousy to be. The peculiarity of the predicament in which I stand, will not allow me to step forth as an accuser on this occasion. Nor is it so much my intention to impeach any particular persons as to rouse you to an enquiry, that you may act according to the proofs which shall appear.

If the enquiry should turn out in favour of the judges, my mortification at being mistaken will be fully balanced by the joy which I shall feel at seeing the nation groundlessly alarmed. But, alas! I fear that will not be the case. Nay, I will be bold to say, that it cannot possibly be the case. The misdemeanors with which they are charged are of too black a dye, and of too great authenticity, to share such a fate. They are accused of allowing the jury the only cognizance of the fact, and of reserving to themselves the right of judging of the intention. The intention is considered as a matter of law, which is beyond the sphere of a jury. In the case of a libel, for example, the jury is only permitted to determine whether it was published by the culprit, and whether it is applicable to the person stated in the indictment, or information. Whether he designed to do an injury or service, is declared totally immaterial to them. They must bring him in guilty. The malice or innocence must be left as a matter of future consideration to the judge, who must give each its due weight as an aggravation, or extenuation, according to the nature of the case. Now I am at a loss to determine whence this species of law is derived. I am sure that it is not dictated by natural justice; for that informs me that the essence of guilt consists in the intention, and that he who kills his father undesignedly is as innocent as a young tree that overtops its parent, and at last destroys it, by consuming all the juice and nourishment afforded by the surrounding earth. Nor does the positive seem to differ from the natural law. At least the code of English jurisprudence is the same, for robbery and murder, without intention, lose their name, and assume that of trespass and manslaughter. If a father sends to his son a letter couched in the most acrimonious expressions, yet there is a precedent for acquitting him of a libel, if it appears that the object at which he aimed was the reformation of his son; or, in other words, if it be clear that he did not write with a malicious intention. But it may be alleged, though reason and the general principle of law are on our side, precedents declare against us. I will take upon me to say, that there are none of good authority, nor indeed of bad or good authority, that militate against me. The general tenor of our decisions allows juries the right of judging of the intention. Were not this fact, upon what grounds could the Seven Bishops have been acquitted? they acknowledged the publication, they acknowledged the application alleged in the information. What then could be left to the cognizance of the jury? Nothing but the intention, with which they published and applied. That the jury found to be good, and therefore they acquitted, to the great joy of all good men, and to the advantage of the whole nation. Nor does it appear, that the judges ever instructed juries to confine their enquiry solely to the fact of publication, and the truth of the innuendoes. These were seldom or never denied. Juries, therefore, would have been useless, if they had no other object to examine but what was confessed. I allow, indeed, that there was one judge who seemed to give a colour to this doctrine; but then his violent and unconstitutional proceedings deprived him of all authority. Because a juryman would not agree to a verdict which his eleven assessors were willing to find, he threw him into prison. The rest of his conduct was of a piece. What inference then can be drawn from his conduct? I would as soon seek for a precedent in the Star-chamber, as in his practice. Judge Powell too, and his coadjutors, are supposed to have countenanced this innovation; but that supposition will, upon examination, be found to be groundless. Need I say more to convince you, that the maxim which I am exposing, stands unsupported by law or gospel? More cases might be produced, but I hope that I have quoted enough to excite you to an enquiry.

This, grievous as it is, is not the only complaint. A master is adjudged to be responsible, in criminal cases, for the misdemeanors of his servant. A bookseller is pronounced to be by law guilty, though he was not in his house when the copies of

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the libel, for which he was prosecuted, were brought to his shop, though they were sold without his knowledge, though his name had been printed on the title-page without his privity or consent, though, upon his return, he sent back the remaining copies, and complained of the liberty which had been taken with his name. Now, though I confess, that in a civil action, the sufferer ought to recover damages, even from the involuntary author of any injury that he has sustained, yet I think it contrary to all ideas of justice, that such a trespasser should be prosecuted as a bad man, and a public delinquent.

This is blending civil and criminal actions, and introducing irremediable confusion into the law. If such conduct be unconstitutional and unjust, how can the culprit be found guilty? The case exceeds my comprehension. The people are justly alarmed with it; nor will their alarm be removed, but by a thorough, an honest enquiry. This you will be the more disposed to believe, when I assure you, that I will prove all my allegations by respectable witnesses, who are willing, when called upon, to appear at your bar. In confidence of their support, and of your approbation, I move,

"That a Committee be appointed to enquire into the administration of Criminal Justice, and the Proceedings of the Judges in Westminster-hall, particularly in cases relating to the Liberty of the Press, and the constitutional Power and Duty of Juries."

Mr. Alderman *Oliver:*

Sir; as the representative of a great city, in which the charges made by my hon. friend, have been and are still the topics of general conversation, I must say, an universal opinion prevails that our courts of justice are not always regulated in their decisions either by the principles of law or the spirit of the constitution. My constituents think that they have seen and felt the baneful effects of court influence and tory doctrines. In their apprehension maxims of jurisprudence, which sap the foundation of our free government, have been countenanced and propagated by those very men, who ought to preserve the purity of our laws, and to check every innovation upon the rights of the people. But how, you will ask, do I know this to be the general belief of the citizens? Not only by conversation, which I think would be a sufficient authority, but by their public acts. A great part of their last Remonstrance, is a brief narrative of the injuries sustained from the judges. They there complain of the encroachments made by them upon the jurisdiction of juries. They there complain that juries are not allowed to go into the general issue, but are confined to the simple fact and application. What more can you desire to authenticate my assertion? What more can you desire to prove, that the same opinion prevails over the whole realm? London is not only the centre of trade and commerce, but of news and politics. Its opinion of state affairs soon circulates round the island, and becomes that of the country. And, let me tell you, it is not without reason, that the rest of the empire is so ready to adopt its sentiments. The citizens are at the very source of intelligence, and nothing of consequence can escape their knowledge. The generality of them are free and independent, because they neither have, nor expect, places or pensions, or contracts, or lucrative jobs. Hence they are not misled by misrepresentation nor warped by interest. No wonder, then, if their correspondents, who are as numerous as they are widely extended, give ready and entire credit to their reports; especially since men are naturally disposed to believe those, whose veracity they have experienced on other occasions. Their strict adherence to truth, in mercantile affairs, gives in political transactions, a currency to their opinion, which cannot be expected to accompany that of the courtiers, except within the verge of the court. May I, then, take it for granted, that the bad opinion conceived of our courts of justice is, if not quite universal, pretty general over the kingdom? I think this conclusion is naturally deducible from what I have now advanced. If I am right in this particular, is it not evident that the committee of enquiry proposed by the learned serjeant is indispensably necessary? I am convinced that no other scheme will remove the present doubts and jealousies of the people. The grievances in question are of too great magnitude, and have too just a foundation to yield to any weaker power. For my own part, I am so fully convinced of this truth, and of the mal-administration of justice, that I am willing to arraign not only measures, but men. My constituents were once on the point of taking this step. I should, therefore, but ill perform the

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duty, which I owe them, if I did not adopt their sentiments. For this reason, it is my desire, that the committee should have for a particular object of its enquiry, the conduct of the chief delinquent, whom I believe to be lord chief justice Mansfield. The enquiry proposed may do much good, and cannot possibly produce the least harm. If the judges are corrupt, they ought to be punished in an exemplary manner; if they are otherwise, the proof of their innocence will re-establish them effectually in the good opinion of the people.

Sir *Joseph Mawbey:*

Sir; coming from a county in which the conduct of a judge has made great noise, and given occasion to much uneasiness, I think it incumbent upon me to take up the affair in this House, which is the grand inquest of the nation, and ought therefore to examine even into imputed grievances. The affair which I mean, is the trial of the Scotch serjeant, at Guildford, for the murder of Smith, an innkeeper. The judge in that case acted, it would seem, in a manner still more dangerous and unconstitutional, than the King's-bench in their doctrine concerning libels. After the jury had found the serjeant guilty of murder, the merciful judge affirmed that they mistook the nature of the case, and insisted upon their being guilty of a misnomer in christening with the name of murder an act, which only amounted to man-slaughter. In short, he obliged them to go back, and to find the culprit guilty only of man-slaughter. Such is the voice of common fame; such is the voice of all our publications, of our newspapers, magazines, and pamphlets. If it speaks truth, ought not the delinquent to be punished? At any rate we should enquire into the transaction. For the people are not without suspicions that a partiality for the military, a predilection for those gentlemen who discovered such alacrity in executing the commands of the ministry, on the memorable day, that saw so many of his Majesty's innocent subjects perish in St. George's-fields, contributed to produce this righteous judgment. Without supposing the interposition of the ministry, they cannot see how a judge could be induced to controul the judgment of a jury in a plain matter of fact, of which they were as well qualified to judge, as the ablest splitter of causes in Westminster-hall. They begin to fear, that if judges are allowed to assume such dictatorial authority, juries will become, instead of bulwarks of the constitution, mere engines to cloak the oppression of magistrates. For these reasons, I wish that the committee may be directed to enquire, not only into the conduct of lord Mansfield, but likewise into that of sir Sidney Stafford Smythe.

Mr. Alderman *Sawbridge:*

Sir; though I am satisfied that the learned serjeant who introduced this motion, has supported it with a series of arguments that cannot be overturned; yet, I think, the nature of the case and the sentiments of the great city, with which I am so closely connected, demand a few words from me on such an interesting occasion. I would, then, ask those gentlemen, who wish to defend the late decisions of the King's-bench, whether they can possibly conceive a crime without a criminal intent? We never ascribe criminality to inanimate objects, let their efforts be ever so ruinous. The fire which burns, or the water which suffocates, is never deemed guilty of the death which it occasions. What is the reason? Because it is incapable of thought and design. Since, then, unintelligent natures are for this reason incapable of guilt, it is plain that rational beings stand in the same predicament, when they act under the same circumstances. Design constitutes the very essence of guilt, and, without it, human actions are no more the objects of punishment or reward, than the effects produced by stocks and stones. Suppose my horse carried away, but that the man who did this action, did it with no felonious intention, but mistook the horse for his own, no crime can be laid to his charge. He is to all intents and purposes guiltless, because he meant no harm. This proposition is evident beyond contradiction; and I defy any lawyer to shew any cause, in which guilt can be imputed without first proving a criminal intention. I say, I defy any lawyer to produce a single case, in which the intention does not constitute the essence of the crime.—[Here the hon. gentleman paused for some minutes, and kept the House in anxious expectation for the sequel; at last, the Speaker said, "I dare say the House will excuse Mr. Sawbridge." Alderman Sawbridge then said, "My spirits are in such a flutter that I believe I cannot proceed."]

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Mr. *Charles Jenkinson :*

Sir; since I first had the honour of a seat in this House, I never saw it disgraced with so irregular, so unprecedented, so absurd a motion as the one which now lies before you. Never do I recollect an occasion on which I either was, or had reason to be shocked with such an unparliamentary, such an uncandid proceeding. I am not, therefore, surprised at the hesitation, embarrassment and confusion, of some members. Though the movers of the question had it obviously in their power to bring a specific charge against the objects of their complaints, if there had been any real ground for what they alledge; they have chosen to keep the point as vague and undetermined as possible, and to fix upon vulgar report as the basis of so important an enquiry. Instead of ascertaining the particular crimes, and the particular persons that are aimed at, they have left the motion general, and as applicable to one judge as to another.

The vehement zeal, it is true, of two members remarkable for their extensive knowledge and oratorical talents, has specified two of the supposed delinquents. But this makes no alteration in the state of the motion. It remains as vague and undetermined as ever. What is the reason that it was thus left floating, like a tub thrown out to the whale?—that every patriot might have room to have a stroke at the judges, by adopting every scandalous report, and charging upon them the imaginary crimes, which have been forged in the furnace of sedition, and crammed down the throats of a deluded populace. Had there been any just foundation for this motion, you would have come to the attack armed in a different manner. Every culprit would have been marked out, and branded in the forehead with his crime. Every cloven foot would have been stripped naked to the view. But knowing this to be impossible, because no real crime existed, you copied the example of the libellers, who have traduced their characters; you left an open field for all kind of aspersion. Where you could not fix crime, you determined to fix odium. Protected by the privilege of the House, you resolved to add fuel to the fire of popular jealousy, and, since you could not ruin by open conviction, to ruin by bold assertions, by ambiguous hints, and dark inuendos.

Sir, you will pardon me for speaking with so much warmth. The two illustrious judges, who have been now so unworthily treated, are my particular friends; and I know them to be men of untainted honour, of uncorruptible integrity, as well as of distinguished abilities. I have no reason to suppose any of their accusers to be their superiors, and indeed hardly their equals, in any virtue. Why, then, should I not follow their example, which they have set me, and treat them with the same freedom, with which they have treated greater men? I do not understand that sort of politeness, which receives without any emotion, injurious attacks upon our friends.

The present motion is so insidiously urged, that I almost blush for its promoters. For shame, gentlemen, be ingenuous. If you really think that there has been any mal-administration in our courts of justice, come forth and make an open and direct charge. Do not fight from hedges and ditches. Do not, like Indians, keep up an irregular but murderous fire from bushes and thickets. If we must perish, let us perish in the face of day. Do not by dark insinuations and unsupported charges, make us objects of vengeance to a deluded rabble. Had you aimed only at truth, and the real good of the state, you could not be at a loss for the proper method of proceeding. You had precedents enough before you. Hook's case, for example, in the reign of queen Anne, is a compass by which you might have steered. Serjeant Hook, one of the Welch judges, had a specific charge brought against him for extorting 20*l.* from the courts. The charge was brought, and supported by lord Berkeley; but here, there is no specific charge, and after many aspersions have been thrown out in consequence of suspicion, we are desired to enquire whether that suspicion is well founded. Our forefathers did not chuse to ground their verdict upon the uncertain voice of the multitude. They would have something fixed and permanent. Why do not you tread in their steps? That you may not pretend ignorance, I have pointed it out, and it is your business to avail yourselves of the intelligence, if you wish to be thought in earnest, or to acquire the character of honesty and parliamentary precision.

Sir, if this House is to proceed in matters of importance upon popular report, instead of specific accusation, every ground-

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less lye in our news-papers will be an object of enquiry; and we shall be so taken up in the examination of mere surmises, that we shall never have a leisure moment for the real business of the nation. The hon. gentleman who made this motion, says he can prove what he asserts; why then does he deal in generals; why does not he make a particular charge, and tell us in what single instance, any single judge is criminal? The reason is evident; the injustice of his allegation would disappoint his views, and give the friends of the accused an opportunity of vindicating them, whereas by making a motion, which he is sensible neither our dignity, nor our honour, can admit us to adopt from its apparent indetermination, he hopes to increase the popular clamour against the judges and the House, and strives to involves both in one seeming act of criminality. The motive is mean, as the conduct is uncandid, and I trust will be treated with proper contempt by this assembly.

Mr. *Connel:*

Sir; I cannot disapprove the warmth discovered by the last speaker in the cause of his friends; if it is not laudable, it is at least excusable. If we cannot praise his discretion, we must applaud his zeal. He does not desert his patrons in the hour of their distress, but lends a helping hand to lift them out of the pit, into which they are falling. But while I thus do justice to the virtues of his heart, let me not be supposed to pay the same compliment to his head. When the passions are engaged; the understanding is seldom to be trusted. I am mistaken, if this is not the fate of the hon. gentleman on this occasion. His mental eye is jaundiced, and prevented him from seeing the motion in its true colours. If this was not the case, how could he charge the supporters of it with sinister views, merely because the charges are not specified? had every article of complaint been made specific and applied to individuals, as he desires, there would have been room for accusing the promoters of the motion with a mean, a malicious personality. They might well be charged with aiming at the ruin of particular men, more than at the redress of grievances. Their behaviour might with some plausibility be attributed to private and selfish, not to public and disinterested, motives. Calumny would have some grounds for making free with their characters, and hanging them out to public scorn as despicable pretenders to patriotism.

In order to avoid this imputation, and to be above all suspicion, the learned serjeant set out upon a large and liberal plan: a plan so comprehensive, that it will include every possible crime and every possible criminal, and yet so very delicate that it marks out no particular person. What would gentlemen have? Would they have the learned serjeant come forward as an informer? He knows better how to consult his own honour, and will not, to gratify them, render himself despicable. Would they have particular crimes charged upon particular judges? That scheme would not answer the end intended. The design of the motion is to penetrate into every secret recess, and to punish hidden as well as revealed crimes, that the Augean stable being thoroughly cleansed, the people may be satisfied, and all the national ferment subside. Would this effect follow from a specific charge? No; personalities are always odious; and here, as in other cases, they would be considered as the dictates of pique, resentment, and envy. Instead, therefore, of diminishing, they would augment the present animosities; whereas on its present foundation no reasonable person can make any exceptions against the motion; because no individual is marked out as a victim, or destined for the altar. The lots are to be cast, and those only who deserve to suffer, can be affected in order to appease the wrath of the people, and re-establish the constitution. Let us then hear no more of the impropriety, irregularity, or absurdity of the motion. The newly proposed mode of proceeding is more justly chargeable with these names.

As to the necessity of agreeing to this enquiry, it must be obvious to the most simple and untutored. Let any one listen to the murmurs of the people, and then, tell me if he has the front, that there is no occasion for the proposed revision of criminal justice, as it is now administered in our courts. Several admirable publications have lately appeared on the doctrine of libels; let the most prejudiced slave of power turn to those, particularly the "Letter on Libels," published by Almon, and after carefully perusing the matters they contain, lay his hand upon his heart, and declare upon his conscience that there is no ground for complaint, and I will give up the argument. It is impossible that any honest man should go through this

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course of discipline, and not close with me in opinion. He must think the people extremely ignorant, or extremely wicked, to be so full of dissatisfaction without an adequate cause. The former solution would do very little credit to his discernment, and the latter would do still less honour to his heart.

Sir, the people of this country are shrewd and sagacious. However much they may err in their notions of foreign politics, they are rarely, if ever, mistaken in their judgment of our domestic affairs. This House, both Houses, and the whole legislature, have frequently taken false steps. Who brought them back again into the right path? The people, the universal and collective wisdom of the nation; why, then, neglect or despise their voice, their murmurs, their execrations? You may be sure they have grounds for their uneasiness. It is not by words, but by deeds, that their minds are ruffled and discomposed. They have no interest in the existence of disorder and confusion. Peace and good government are always desirable objects to them, and they are the two things at which their murmurs aim. Restore these blessings, and their clamours cease. But while the same grievances continue unredressed, and while the authors of them remain in authority, and multiply their oppressions, it is in vain that you expect their acquiescence. They will get loose from their chains, or, like the strong man, pull down the pillars of the constitution, in the struggle. They will never rest till they have dragged down from the bench the political judge, who wrests and perverts the laws in order to satiate his own avarice, and to serve the purposes of tyranny. Not that I charge any individual with this high crime; no, all I mean is, that such an opinion prevails, and that while it prevails, the people can never enjoy tranquillity, because they can never think their liberties or properties secure as long as they nourish such a viper in their bosom. Let us therefore remove the cause, if we would annihilate the effect, and govern according to the principles of justice, if we are desirous of seeing obedience once more established among the people.

Mr. *Grey Cooper*:

Sir; I am always of opinion that in important points, men should deviate neither to the right nor the left, but keep the direct road to the object of their pursuit. They should not beat the bushes for coneys, when their view is to start hares. They should not surround the whole forest with their greyhounds and bloodhounds, and threaten a general chace, when their only aim is to hunt down a single stag. Why should the whole country be alarmed with an universal hue and cry, when only two individuals are to be taken? There is something ungenerous as well as impolitic, in raising a clamour against all the judges, because two happen to be obnoxious to certain gentlemen. The motion, as it now stands, presumes that our courts of justice are in general corrupted; and yet it appears, from the language of several members, that two judges only are aimed at by the enquiry. At least I do not find that any more are suspected. Certainly no hints, no oblique reflexions of that nature have yet been dropped in this House. Could this have happened, if there had been any real foundation for complaint? It is impossible. The original mover of the question must have been in the secret; and the delicacy of his friends would have spared their names with the same cautious tenderness which they have shewn those of Mansfield and Smythe.

We may, then, take it for granted, that even the promoters of the enquiry do not suspect any others of malversation, and that these two are the only delinquents struck at by patriotic vengeance. If this be fact, and that it is so, I appeal to the honour and conscience of every man who hears me, why was not the enquiry confined to them? Why were they not openly and boldly charged with their crimes, that having a fixed and permanent object of discussion before us, we might come to a certain and speedy determination? Why are we thus precipitated into a general attack upon our courts of justice, when only two persons are held culpable? Real patriotism is always honest, open, and direct; it avows boldly its motives and designs, and does not, in order to be revenged of a few, involve many in the same indiscriminate censure. For, let me tell you, Sir, the very adoption of this motion will be a kind of previous condemnation of all our great law-officers, because all will see that, as a ground-work, we must first have supposed or believed them to be guilty. Now, can any thing be more rash or iniquitous than this proceeding? We have no charges, no surmises, but against two; and yet we shall not only suspect, but believe all to be guilty! Does this conduct become a wise,

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grave, and venerable assembly, who must know that judges are not lightly to be suspected, and that those who bring their character in question, without producing weighty and well-supported charges, ought to undergo severe and exemplary punishment? I cannot, therefore, persuade myself that the mover will find many abettors. The scheme, as my hon. friend very justly observed, is too irregular and absurd, as well as unfair and uncandid, to gain a respectable division. Contrary not only to forms and precedents, but to reason and equity, it must equally shock the judgment and feeling of every unprejudiced man.

Thus, then, all that was said by the last speaker, falls to the ground like the baseless fabric of a vision. The whole being an air-built castle founded on the supposition of the general criminality of the judges, and of the necessity of a general inquiry, it vanishes before the light of reason, as ghosts do at the approach of the sun. The real, the concealed end of the enquiry, is the condemnation, or at least the aspersion, of two persons. The manner, in which it is to be conducted, necessarily implies guilt in ten more, against whom no charge appears. The consequence is that, if we would not be convicted of manifest injustice, we must reject the motion, and postpone the farther consideration of the whole affair, till some patriot has the courage and honesty, or the temerity and villainy, to make a specific charge. We must leave to the Bill-of-Rights-men the wisdom and uprightness of enquiring into the conduct of magistracy, with the pious hope that some flaw will be found in their proceedings. It is not our business to move heaven and earth in order to blacken their character, because we do not hate the men. Such patriotism is more becoming in those desperadoes, whom the judges, as the instruments of law, punished for their crimes.

But there is, forsooth, a pamphlet, which charges a certain judge with various misdemeanors. What then? must we, in consequence of its misrepresentations, arraign his conduct? If we are to be regulated by pamphlets, I believe we shall soon have plenty of business on our hands. For where is the man, into whose behaviour we must not at this rate inquire? If you credit news-papers and pamphlets, we are all profligate and abandoned. There is hardly an individual among us, that is sound and untainted. At least I will engage to shew the best of you represented in this light by some publication or other. Why then, in the name of absurdity, do you mention a pamphlet, or popular rumour, as a ground of impeachment? The greatest worth and innocence cannot upon this plan escape. Indeed the pamphlet in question is an excellent pamphlet, if you think there is any merit in proving what was never doubted. A jury had found Woodfall guilty of printing and publishing only, and the awkward compiler of the Letter on Libels wastes 158 octavo pages of paper in attempting to demonstrate, that according to this verdict he could not be punished by the judge! What a profound casuist! I apprehend that Almon will soon employ him in writing a quarto volume, to prove that two and two are equal to four! He seems to be the only man for elucidating a self-evident proposition, and for giving a comely appearance to a little learning, by garnishing it round with suffocating periods, antiquated phrases, and barbarous idioms. Such is the Vandal, that the last speaker would make the oracular leader of the legislature of Great Britain! O disgraceful! what infamy awaits us next?

Sir, shall we, the representative of the whole English nation, receive the drowsy declamation of every interested scribbler as our invariable rule of action? If we are to-day guided by a popular pamphlet, will not the same argument exist for listening to an unpopular one to-morrow? At this rate, Sir, neither stability nor order can exist a moment in our resolutions, and the last writer, let his principles, or his doctrines, be never so ludicrous, never so dangerous, must necessarily furnish the Commons of England with a dictator. Truly, Sir, this is a whimsical mode of maintaining our parliamentary independency, and we shall have much reason to guard against encroachments from the crown, if we are to determine upon national points, merely as every vender of sedition may think proper to direct us.

But the wisdom of the present motion, is perfectly of a piece with the justice; we are called upon to stigmatize ten innocent men, for the sole purpose of involving two obnoxious judges in the same charge of criminality. Gentlemen may say, that it is necessary for the honour of our courts to enter into the proposed enquiry. I am of a very different opinion. I think it more for their honour to dismiss the motion as malicious, than to receive it as well founded. Such a dismission is more to their credit, than

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the most solemn acquittal we can pronounce, and when we know that the acquittal will afford slander as ample a field for abuse, as an indignant rejection of the charge, it is wasting our time, as well as lessening our dignity, to waste another word upon the motion.

Mr. Alderman *Townshend*:

Sir; I am every day a witness to the uneasinesses and murmurs of the people, and as I see the necessity of an inquiry becoming every hour more and more urgent, my conscience would charge me with infidelity to my constituents, were I to remain fixed to my seat, while I hear any member sporting with their interest, and using every art to divert us from giving them satisfaction. I have not heard any gentleman deny that the people suspect the integrity of our courts of justice, and are consequently uneasy. Is it not necessary to remove this suspicion and this uneasiness? And is it not our business, our peculiar province and duty to remove them? Undoubtedly; the proposition is uncontrovertible. But can this good consequence be produced by sophistical arguments advanced in this House? By no means. As something was done by the courts of justice to wake their jealousy, something must be done by us to lay it asleep. Deeds, not words, are now required; and the inquiry seems the only plausible scheme. If a better plan can be offered, I am not so much wedded to the present as not to embrace it with open arms. My sole object is the satisfaction of the people; I am as well pleased with one as with another, provided I think it equally efficacious. But, while I deem the enquiry not only the best, but the sole plan, that will quiet the nation, I must adhere to the inquiry. The charges against our judges, I mean the published charges, which have given birth to the national anxiety and disquietude, are complicated and extensive, and therefore the plan by which they are to be removed, must be equally extensive.

Much has been said, and very justly said of the unconstitutional law, which has been laid down to juries. But what have become of informations, attachments, interrogatories, and a long train of concomitants? Are not they unconstitutional? Do not they call for an enquiry? Is not perpetual imprisonment, where the same person is party, judge, and jury, an object worthy of our attention? These things are charged upon our judges; and they have greatly contributed to swell the popular clamour; because they are exotics unknown and unwelcome to our soil and climate: evidently derived from the civil law, they can never assimilate with the British constitution. The people will reject them as incompatible with the nature of our laws, and the noble institution of juries. The end of all laws should be the happiness of the people, and every thing is a treason at the great bar of humanity, which is in the least calculated to support oppression. Were general warrants therefore absolutely legal by a positive statute, —were informations, interrogatories, absolutely legal by positive statute, and the power of juries equally confined by law, it would be our duty to repeal such diabolical acts.

But these points, however interesting, are not all. Many other circumstances crowd upon my mind. That I may not exhaust the patience of the House, I will only insist upon one, which, in my opinion, is equivalent to a thousand. 'Ex uno disce omnes.' I am afraid then, that there is too great a vicinity between Westminster-hall and St. James's. I suspect, and the people suspect, that their correspondence is too close and intimate. But why do I say it is suspected? It is a known, avowed fact. A late judge, equally remarkable for his knowledge and integrity, was tampered with by administration. He was solicited to favour the crown in certain trials, which were then depending between it and the subject. I hear some desiring me to name the judge; but there is no necessity for it. The fact is known to several members of this House; and, if I do not speak truth, let those who can contradict me. I call upon them to rise, that the public may not be abused.—But all are silent, and can as little invalidate what I have said, as what I am going to say. This great, this honest judge, being thus solicited in vain, what was now to be done? What was the last resource of baffled injustice? That was learned from a short conversation which passed between him and some friends a little before his death. The last and most powerful engine was applied. A letter was sent him directly from a great personage; but, as he suspected it to contain something dishonourable, he sent it back unopened. Is not this a subject that deserves enquiry? Ought we not to trace out the adviser of such a daring step, and, upon proper con-

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viction, to bring him to the block? The excellent person who was thus tempted to disgrace and perjure himself, and to betray and ruin his country, could not die in peace, till he had disclosed this scene of iniquity, and warned his fellow-citizens of their danger. Shall we then, who are appointed guardians of the people, not take his warning, and wake from that lethargy, with which we have been so long benumbed? He had no interest in communicating this intelligence. He saw himself on the brink of the vast ocean of eternity, on the eve of his journey to "that undiscovered country, from whose bourne no traveller returns." Nothing, therefore, could animate his breast, but that pure flame of patriotism, which had always directed his steps, and of which he had given so recent a proof.

Ought not we then, even if we laugh at all patriotism, to bestir in our own liberty and property? Yes, certainly; for, let me tell you, neither are secure, if we do not immediately check all sympathy and fellow-feeling between the judges and the crown, and much more all undue influence and palpable corruption. It is in vain that the salaries of the judges are raised, if their ambition and avarice are inflamed by ministerial bribes, or promises from the crown. The people will be highly dissatisfied, and will have reason to be so, till they see the repetition of such criminal acts stopped by the fear and terror produced by exemplary punishments. Let me then, conjure you to imitate the glorious example of your forefathers, by adopting this enquiry, by penetrating into every recess, and dragging forth villany, though it should lurk behind the throne. Thus will you retrieve your lost character; thus will you restore unanimity and strength to a divided and unhappy kingdom; thus you will be beloved and honoured by the present age, and acquire the esteem and reverence of posterity.

[N. B. Sir Joseph Yates was the judge meant by the alderman. When the letter from a great personage was mentioned, lord North, and the rest of the treasury-bench stared at one another, but did not utter a single sentence by way of contradiction.]

Lord *Clare*:

Sir; I am fully persuaded that nothing but an inquiry will satisfy the last speaker and his faction. Indeed I am convinced they will not be satisfied, except they can ruin one of the greatest men that this nation ever produced. The light of justice and the strength of unanswerable argument, have no effect upon their prejudices. But will this House, while it sees this, be swayed by their unworthy motives? Shall we adopt the lie of the day, and strengthen the tide of popular clamour, on which they expect to be wafted to the land of places, pensions, and lucrative jobs? The idea is too gross and absurd: we must all know that this enquiry would not quiet the discontented faction; because, we know that the judges have law on their side, and must therefore stand acquitted. Why, then, engage in such a laborious and tedious examination? Those, who are capable of being set right, will be set right by this night's debate. As for the rest, they will remain infidels, were one to rise even from the dead. Inspiration would make no impression on their minds. Were not this the fact, were they not resolved to shut their eyes against conviction, and determined to continue the outcry, which their arts have raised against the courts, would they set their own little knowledge in opposition to the collective wisdom of the various benches, and come in here to tell us that the judges did not understand, or willingly violated the law?

Sir, I am no lawyer. I cannot therefore quote precedents and cases so readily as the learned serjeant, who moved this question; but I am told by gentlemen who are not inferior to him, either in judicial knowledge, or knowledge of the constitution, that the doctrines, which he has arraigned, are not new or peculiar to the noble lord who has been so scandalously traduced. They may be traced back as far as any monuments reach; and down from the Revolution they have universally obtained, and are consequently the standing law of the land. Why, then, was the illustrious lord, who presides in the King's-bench, singled out from all the judges, who have patronised the same opinion? Why is he in particular adjudged criminal, and pointed at by the finger of faction? If any of you is at a loss for the reason, I believe I can explain it. This great lawyer happened to sit on the bench, when the ring-leader of sedition was, by the laws of his country, to suffer for his crimes; and, notwithstanding the clamours and threats of the misled populace, he had the courage and virtue to put the laws in execution. He fined and imprisoned the de-

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linquent. From this source springs the unrelenting vengeance, and merciless persecution of the city patriots. The same great lawyer happens, at the requisition of his prince, to apply that wisdom, for which he is so eminently distinguished, to the good of the state, and the support of government. Hence the Thatched-house Junto call him a minister and a political judge, as if it were a crime to be possessed of political knowledge, and criminal to give disinterested counsel to the King and his ministers. Our patriots dreading his superior abilities, as insurmountable obstacles to their elevation, proclaim war against him, and strain every nerve to accomplish his destruction. But the justice of this House will disappoint their diabolical machinations. The majority of this House disdain to court the prejudices of the rabble with a sacrifice of innocent, of meritorious blood. We have no ends to gain by the perpetration of murders, and leave such villainous roads to fame, for the panders of popularity.

Sir, the picture which I have here given you of our patriots, discovers the features of truth, and the likeness must be palpable to our senses. Why, then, should we be surprised that they make such an irregular and distant attack upon so formidable an enemy as the chief of the King's-bench? Sensible that, if they came to close quarters, they would be inevitably foiled, they keep aloof, and, instead of a direct charge, confine themselves to an enquiry. They raise a false alarm, a hue and cry about something, they know not what, in order to make the world stare, and inflame the mind of ignorance. One tells you, that the criminal law is perverted, and juries overturned. But, when you ask for the author of all this ruin and desolation, he is nonplussed and silenced. Another tells you, that he believes the author to be lord Mansfield. But, when you demand his reasons, he gapes for utterance like a skate gasping for breath out of water, and is at his wit's end. What must we think of this embarrassment and confusion? Their conduct puts me in mind of an old Greek story, which I read, when I was a boy at school. It is a well known story, gentlemen, you have all read it. It is the story of Ulysses. This good old Grecian, wise as he was, happened to be shipwrecked on an island inhabited by a race of giants. It was his misfortune to take shelter in the cave of Polyphemus, the most formidable of the whole tribe. This Polyphemus used, after the manner of giants, I suppose, to stay his stomach with some of these wretched Greeks, whom he had caught on his premises. Out of revenge, as well as for his own security, Ulysses watched his opportunity, and with a fire-brand put out the eye of the Cyclops as he lay asleep, in the same manner, as our giants alledge, that lord Mansfield has put out the eye of the law. The pain, as you may easily conceive, waked the giant. It did; and, after groping his way out of the cave in the dark, (for neither he nor any of his nation had but one eye, which by the bye was in the middle of their forehead) he raised a terrible outcry, you may be sure. I question much whether it was not more frightful than the Indian war-whoop, or the Irish howl. Well, be that as it will, his dolorous lamentations brought together a large posse of his one-eyed brethren, and they found him, I dare say, in as bad a pickle as our patriotic cyclopses have found the constitution. But still it remained for Polyphemus, who had raised all this noise, to resolve the grand question, who did it? The Greeks having stole away in the bustle, he could produce nobody, and all the answer that his brothers could get was, that 'nobody did it!' Thus are we alarmed with terrible encroachments on liberty and property, but when we demand the authors, they are not to be found. There are sad doings, but nobody did them!

Sir, the more we consider the nature of the times, the more it becomes us to reject the proposed enquiry; for unless we condemn at any rate, it will be impossible for us to satisfy the clamours of patriotism; if we enter into the examination recommended by the learned serjeant, and finding ample room to applaud the judge, at whom his political thunder is levelled, do justice to his character, will not the rabble without doors impeach the integrity of the decision, as they have hitherto impeached the integrity of all our decisions, and fill every newspaper with complaints, that we only venally acquitted him in obedience to the commands of the ministry? We may easily see the temper of our patriots from their treatment even of juries, warmly as they contend for the omnipotence of twelve judicial inquisitors. When a jury finds a verdict agreeably to their wishes, then the power of juries is to be held inviolably sacred: but when Almon is convicted by a jury, the matter

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wears a very different complexion. Nay, when a special jury has convicted Horne for libelling a member of this House, the learned serjeant, who moved the present motion, advises his client to appeal from the determination of this constitutional tribunal; and to whom does the serjeant advise the person to appeal? To those very courts, whose probity he himself arraigns, and whose prostitution he affirms is evident to universal notoriety?

Sir, what more need I urge against the flagititious question on your table? Indeed, there was no necessity for my urging so much; but the profligacy of the proceedings roused all the indignation of my bosom, and I could not content myself with a bare vote where so infamous an attack was wantonly made upon virtue.

Mr. *Cornwall:*

Sir; as on a former occasion I expressed my approbation of the enquiry proposed, I should be wanting to myself and my friends, if I did not endeavour to forward its progress. It would be idle to specify the different accusations, the various unconstitutional acts charged upon the courts of justice. Of these points I gave you a detail in the course of another debate; and the learned serjeant, who moved this question, has again refreshed your memories, and almost exhausted the subject. Let it be my task then, as I stand upon his ground, to shew you the propriety, nay the indispensable necessity of adopting the motion: this I shall do with candour, yet I hope with force, and having the public good only in view, I shall neither be unjust upon the one hand, nor timid upon the other.

Sir; the charges, which have been now exhibited against the courts of justice, are not light and trivial. They are not like those vulgar reports, those lies of the day which spring from nothing, and terminate in nothing. No; they are grave and serious matters; matters of weight and moment, which bear the stamp of authenticity, and carry with them every mark of credibility. Has not the learned serjeant informed you that he will bring to your bar respectable witnesses, who will upon oath, prove all his allegations? Has he not in a former debate, assured you, that upon enquiry, the courts of justice will be found guilty of mal-administration? Did he not stake his reputation upon the truth of this assertion? What more can you desire? A man of his wisdom, gravity, and authority, a man, who has every opportunity, and every requisite talent for knowing the real state of the case, tells you, upon his honour and veracity, that there are misdemeanors in the law department, and even engages to demonstrate the fact by positive and direct evidence. Can any thing be more forcible, more cogent than this? Except the proof of every charge was actually laid before you, I cannot see how he could more strongly engage your honour and interest in the enquiry. But, he does not rest the matter upon his own credit, he strengthens it by that of the respectable member who seconded his motion, and supports it by the particular charge made by a representative of the metropolis. What, then, do you find here wanting? The judges in general are accused, and particular judges are particularly mentioned. And by whom? By grave men, who have the best means of information; by a pleader of distinguished character in the courts, and by a representative of the first city in the British empire; both tell you, that their constituents, that England in general, are dissatisfied, and have reason to be dissatisfied with the administration of justice. If this be not a sufficient foundation for adopting the motion, I must confess myself totally ignorant of the matter.

Sir; I readily acknowledge that vulgar reports are not sufficient grounds for impeachment, though they are sufficient grounds for enquiry. But will any man in his senses call the charges now urged against the judges, vulgar reports? If ever they were viewed in that light, I am sure they must now have changed their colour. They have got a degree beyond the state of rumour, and begin to assume the air of certainty. At least the people have conceived that idea of them; and I fear they will retain it, till they are undeceived by an enquiry. Consider, then, I beseech you, what will be the consequence of leaving the public in the present condition of uneasiness and discontent. Soured and exasperated as they have been by the process of the Middlesex election, by the affair of St. George's Fields, by the imprudent system of American politics now adopted, by the folly observable in our foreign negociations, and the madness distinguishable in the management of our affairs at home, how can they preserve any degree of temper, when they suspect encroachments to be made on juries, the firmest bulwarks of liberty and property?

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When their general interest is not only neglected, but betrayed, they must lose all patience; when they observe the courts of justice forfeiting all pretensions to honesty and integrity, and openly avowing principles which are subversive of all liberty, can the people continue tame spectators of their own destruction? When an opinion prevails, that justice, the great upholder of society, is no longer to be obtained, what motive remains to bind them to the support of government? I see none. When the people lose, and the crown and its dependents alone gain, by the actual state of society, a dissolution necessarily ensues: because the society is really and truly come back to its original state of violence and anarchy.

Sir; far be it from me to insinuate that our judges have brought us to this crisis. I hope they will be found blameless, or at least excusable. If it appears that they have been led astray by the former sages of the law; if any one can prove them *errare cum patribus*, no man will be more ready than I to throw a veil over their failings. But while matters stand on their present basis; while we are in doubt, and the people in anxiety, I cannot rest satisfied without an enquiry. We have already done enough, and more than enough to work them into a ferment. Shall we continue the same career, and because we have once offended, multiply offences? Take a view of the grand scene, in which we are likely to be engaged. Set before your eyes France and Spain strengthened by long preparations, and animated by the irresolution, shortsightedness, and timidity of our ministry; look at these, I say, ready to burst in a storm upon us, look at the rest of Europe rather hostile than friendly, and think for God's sake, in earnest, of restoring the good humour of the people. Imitate the Roman senators, who removed the Æqui and the Volsci from their gates, by granting to the plebeians the abolition of all debts, the greatest grievance of the time.

Sir; it is not in our armies or our fleets, that our chief strength consists; it is in the affections of the people; neither our soldiers nor our seamen can as Britons fight for the government, which endeavours to make them slaves; and never shall we be formidable to foreign enemies while we continue distracted in ourselves.

Mr. *George Onslow*:

Sir; it is not so much to discuss the motion before you that I rise, as to do justice to a character that has been grossly misrepresented. Were I disposed to expatiate on the conduct of the judges in general, I believe I might be as eloquent in their defence, as the gentlemen who have taken the liberty of calling their integrity in question have been copious in their accusation. At least I am convinced, that if I failed, it would not be through want of matter, but through want of ability. For I take them to be, for knowledge of the law, and for purity of intention, at least equal to any set of judges that ever Westminster-hall could boast at one time. And it is to this very circumstance of their knowledge, joined to their inflexible virtue, that I attribute all the clamour which has been raised against them. Had they meanly, had they infamously crouched beneath the threats of the deluded mob; had they ignobly spread out their sails to the fallacious breeze of popular favour, and suffered their bark to glide down the current of the multitude; in a word, had they wrested the laws to favour the ringleaders of faction and the promoters of sedition, they would have been the greatest of judges, and the first patriots of their country. No names, no honours, would have been adequate to their virtues. Each of them would have been a Coke, and a Holt, and a second Daniel. The chancellorship would be too small a reward for their respective merits. But since they have, like honest men, acted conscientiously, and supported the laws in opposition to the giddy violence and licentious fury of the times; since they have exercised the wholesome severity of justice upon the criminal idols of the rabble, no epithets are too hard for them. One is called the "supple Page," another is termed the "corrupt Tresilian," and a third is christened the "bloody Jefferies."

And after thus endeavouring to rob them of their good name among the people, nothing will satisfy patriotism, except they are rendered equally criminal in the eyes of this House. But, I am sure, they will miss their aim. We have more discernment than to swallow such gross impositions; and we may justly apply to them the noted line, "Vane ligur—Nequicquam patrias tentasti lubricus artes." They could not have taken a more imprudent step, than to bring the affair before this House, which has more eyes than Argus. It will prove as fatal to their cause as a court of justice to a libeller.

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For what is this motion but a libel upon the judges, and what is this House but the court before which it is to be tried? To me they appear in that light. But, since the supporters will have it so, let us suppose it a charge, and see what will be the consequence. The consequence will be an honourable acquittal to the judges, and a disgraceful repulse to their accusers. Two only have been hitherto arraigned. It shall be my task to clear the one. His friends will, I doubt not, do the same justice to the other.

The judge then, whom I undertake to justify, is baron Smythe; a man to whom I owe every thing; for the recovery of a fair reputation, is every thing to me. Were I not, therefore, to defend his injured character, when it is in my power, I should indeed deserve to be called a violator of the sacred ties of friendship, and to be suspected of betraying those dishonourable connections, which I only renounced. For I know not a man that is in private life more amiable, or in a public character more respectable, than baron Smythe. Had it not been for his integrity and firmness, I verily believe the violence of the times would have, on more occasions than one, altered the criminal law of the land. He is accused, or rather traduced, for having at Guildford sent back the jury that tried the Scotch serjeant for the murder of Smith, the inn-keeper. His accusers triumph greatly in the clearness and strength of the evidence against him. But "mark how a plain tale shall put them down." I claim the honour of coming from the county where this fact happened, as well as the hon. gentleman who introduced the subject. I had therefore as good an opportunity as he of sifting the affair. And though I was not present at the trial, I will venture to affirm that I am as deep in the mystery as he is. By his own confession, all his intelligence comes from report, from newspapers, and magazines; very respectable authorities to be sure! and much to be credited! But will he do me the honour to believe that my intelligence is not less authentic, when I tell him, that I had it from grave and venerable men, who were on the spot? Will he do the judge the justice to own, that the charge is groundless and scandalous, when I tell him that these grave and venerable men declare, that the jury were not unanimous in their first verdict; and that therefore the judge was obliged to send them back to consult? If I misrepresent the fact, there are present those, who can contradict me; and I here call upon them to rise up, and bear testimony against me if I am wrong.—It is well; silence gives consent. Here, then, I repeat it, the jurors were not unanimous. When the foreman pronounced "Guilty of Murder," the judge asked them if that was their verdict, and one of them answered, "No, it is not my verdict." Are not these expressions sufficient to vindicate baron Smythe? I am told that they gave much satisfaction to all the men of sense and humanity in the court. Shocked with the iniquity of the first verdict, which seemed to be founded on the jury's antipathy to the culprit, as a soldier and a Scotchman, they were pleased to see one man at least free from the rage of party, and capable of reflection and justice. They were pleased to see the judge superior to faction, superior to malice, forget every consideration but that of doing his duty, and prove to the jury that they had mistaken manslaughter for murder.

Sir *George Savile:*

Sir; when this motion is supported by men of such respectable characters, of such gravity and wisdom, of such weight and authority, not only in the nation but in this House; I am surprised that it should meet with so much opposition. For where, I beseech you, is there any mischief to be apprehended? If, as their friends allege, the judges are innocent, they will be acquitted with honour. Their doctrines, if they are constitutional, will be approved; and if they are unconstitutional, but yet legal, they will bring no censure, much less condemnation, upon them. The ministers, who think themselves strong enough to prevent an enquiry, will surely be equally strong to render the enquiry favourable to their cause, and to pass a vote of approbation. For these reasons, I think that both parties ought to concur in promoting the enquiry.

Indeed, Sir, after what has been advanced by a respectable alderman, I cannot see how we can with any grace pursue a different plan. You are openly told, that ministers have attempted to corrupt the venerable sages of the law, to debauch them from the interest of their country, and to wheedle them into decisions contrary to their oaths, contrary to justice. Is not this a serious matter? Does it not call loudly for an enquiry? In my apprehension

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it is truly alarming, and should rouse us into immediate action. Are you afraid of engaging in a fruitless search, and of not being able to convict the delinquents? That is impossible; for the same member assures you, that if you appoint your committee, and grant it the usual powers of sending for persons and papers, he will prove his allegations at the bar of this House. What more can you desire? Here is a direct and positive charge, and a direct and positive proof is offered. How can the grand inquest of the nation, whose ears ought always to be open to complaints of malversation, throw out a bill, which has so many characters of a true bill? For my part, I look upon you in the light of a grand jury, which, though not bound by oath, is still bound by honour, and justice, and conscience, to find according to the evidence that is produced. What better evidence can you require in this case? No better can hardly be imagined.

As an additional motive, however, let me remind you, that he has declared, that he heard with his own ears, from the mouth of lord Mansfield, words expressive of the doctrines now arraigned. Is not this the very thing you wanted? It is: it is the specific charge, for which some gentlemen seemed to be so eager. A member of your own House stands a declared witness before you. He mentions persons and things, and brings the charge home to the supposed culprit. What excuse, what subterfuge, now remains? You are fairly beat out of all the strong holds, in which you expected to make so notable a defence. Two or three plain words overturn all your magic, and make those enchanted castles, in which you thought yourselves impregnable, vanish into air. In vain is Ulysses, in vain is Polyphemus, and his one-eyed brothers, pressed into your service. These and the old Greek story, which we have all read, become mere sound, *vox et præterea nihil.*

Consider, I beseech you, the dangerous consequences of the doctrines in question; and, if you will not be moved by the interest of the public, be moved by your own. This House has voted away its privilege in matters of libel. Any member that is supposed to have been concerned in composing, printing, or publishing a supposed libel, may, by a mandate of the court, be seized in your lobby, or dragged from his seat. And who is to determine, whether this supposed libel deserves the name of libel or not? Not a jury; for that point does not come within their province, because it is an inference of law, and therefore above their sphere. It belongs only to the judges. They are the only men that can untie the Gordian knot. Even a member of this House, though enlightened by the pleading of counsel, and the direction of the judge, was incapable of unravelling this intricate affair. Not that the supporters of this opinion thought the matter formerly so thorny and difficult. They could, in the case of Wilkes, take upon them to decide what was a libel, without consulting any judge. I suppose they trusted at that time, to some supernatural assistance, to some inspiration from above, else they would not have undertaken the solution of so difficult a problem. Or, is it that too hard application to the affairs of government has exhausted their fund of understanding, and clouded their minds? From the vast care which they have taken to settle our affairs at home and abroad, I am tempted to believe that this is the case. Had they not lost their former penetration and judgment, would not the consequences resulting from the check given to the enquiry which some gentlemen proposed to make into the affair of St. George's-fields, have taught them to forward this enquiry? Have they forgot the murmurs and heart-burnings produced by the suppression of that constitutional measure? The common talk of the time was, that you had first excited the people to complain, that then you massacred them for complaining, and that lastly, you protected and rewarded the murderers and assassins. I do not say with what justice these aspersions were thrown upon you; but that they were thrown, is an undoubted fact. Is there not reason to suspect, that the rejection of this motion will have a similar effect? Be assured that it will render you not only odious, but despicable. You will be thought possessed of no faith, no honour, no conscience. Your name will become the ridicule and laughing-stock of the rabble. The House will be exposed in songs and ballads, and ditties, in every street:

"Flebit et insignis tota cantabitur urbe."

The authorlings, and printers, and printers devils, will be all in motion. The press will labour and groan. News-papers, pamphlets, puns, and pasquinades, will increase and multiply. Grub-street will pour out its thousands, and Paternoster-row its tens of thousands; and the land

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will be one scene of anarchy and confusion. View this picture, and reject the motion if you can.

Sir *Gilbert Elliot:*

Sir; nothing can be more strange or inconclusive than the reasoning of the last speaker. He takes it for granted, that, according to the assertion of a certain alderman, the integrity of a deceased judge was tempted; and upon this basis he grounds the necessity of the proposed enquiry. But why does he not give credit to the whole of this surprising intelligence? Why does he confine his belief to one half? When we were blessed with this anecdote, it was understood that the tempter had no power over the judge. He was more virtuous than our first parents, Adam and Eve, and did not taste the forbidden fruit. By what kind of logic, then, do you make this fact a foundation for the enquiry? Is an instance of uprightness in a judge an argument for suspecting all the judges of malversation and corruption, and for appointing a committee to sift their conduct? I believe every sober man will draw a quite different conclusion. The merest novice in the art of thinking will see and feel, that it furnishes the strongest motive for superseding all enquiry. One would think that the heads of our patriots are turned, and that their eagerness to serve the public, has made them forget the plainest principles of reason as well as justice. Having a good end in view, they are not very scrupulous about the nature of the means. They think themselves justified in doing evil, if good comes of it. So far are they good Christians. I mean Christians of Loyola's sect. Nor ought their discretion in pitching on a dead judge to be forgotten: "Dead folks tell no tales," is the proverb of the foreign robber. Their prudence therefore in copying his example, and in killing their evidence, is highly to be commended. It is of a piece with that openness and sincerity, which made a general attack upon all the judges, when only one was, for obvious reasons, and very honourable purposes, the object of vengeance.

It is now, indeed, pretended, that all our wants are supplied, that a few casual expressions and vague declarations contained in the speeches of two members, have totally altered the original state of the case, and rendered a general charge particular. But whence is this notion derived? Is the original motion withdrawn? Or has it undergone any alteration or amendment? Nothing can be farther from the truth. It still remains *in statu quo*, with all its sins and imperfections upon its head. What then, in the name of blundering and absurdity, can gentlemen mean, by telling us, that we have now before us the specific charge, which was desired? No, Sir, we have no such thing upon the table. The original motion lies there still; and the particular facts or charges in question, whether true or false, were only introduced to aid its progress through the House. At least, we cannot, according to the forms and orders of the House, view them in any other light. The reasonings therefore, founded on this supposition, were logical and just, and for the contrary reason, those of the last speaker, were absurd and inconclusive. If, sensible of the impropriety or impossibility of supporting such a vague and undetermined charge, you choose to give us a specific charge, you must lay your heads together once more, and manufacture a fresh one, or new-model the present.

Sir, it is not that I care, if the House take this for a specific charge, and apply the general assertions of the member who moved it to lord Mansfield. I am not disposed to imitate that delicacy which prompted him to accuse all the judges instead of one. I will be frank and open. I will freely confess that the very doctrines, which he condemned in terms, indeed, not very precise nor intelligible, but still in such terms, as his eloquence afforded, have been taught from the Bench. Not indeed that I was in court when they were delivered. No; I do not pledge myself to the House as a witness. Nor do I think that any man was under a necessity of pledging himself. For I have it from the best authority, that the heterodox tenets now under our consideration are the avowed creed of the judges, and that, if they are heretics, they are heretics with their eyes open. These articles of belief they have adopted upon the maturest deliberation, and by these articles they are willing to abide. The principal, and indeed I may say the only man, at whom you aim, scorns to shrink from your blow. He will meet you in the open field, with equal arms and without any odds. For he laughs at all the terrors of your patriotic inquisition, at all your tortures, all your stakes, and fires and faggots.

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"The man, whose mind on virtue bent,
Pursues some greatly good intent
With undiverted aim,
Serene beholds the angry crowd,
Nor can their clamours fierce and loud
His stubborn honour tame."

The law of the land will be his shield and wall of defence; and I doubt not but he will, by its assistance, pass unhurt through your ordeal. He will come out of your fiery furnace as safe and sound as Daniel. Not a hair of his head shall be singed.

The learned serjeant indeed, for we must give him all his titles of honour; the learned serjeant, I say, blusters and swaggers, and swears that these doctrines are contrary both to law and gospel, that they are not countenanced by any precedents, and that if any precedents should be found, he will prove them to be of no authority. But what will this man of law say, if I prove to him that they have the sanction of the best precedents, and are the known and established law of the land? I do not choose to quote Scroggs or Jefferies, though they cannot, in all cases, be accused of illegal decisions. I will produce the best authority from the best times. I will produce the authority of lord chief justice Raymond, who, in the case of Richard Franklin tried in December 1731, before lord chief justice Raymond, for printing and publishing a libel, as is recorded in the State Trials,* will be found to hold the very opinion and the very language which are now represented to be illegal, and charged upon lord Mansfield as crimes. And, because it may have more weight with the House, I will read you his words: "It is my opinion," says chief justice Raymond, "that it is not material whether the facts charged in a libel be true or false, if the prosecution is by indictment or information.—Therefore I shall not allow of any evidence to prove that the matters charged in the libel are true; for I am only abiding by what has been formerly done in cases of the like nature.—In this information or libel, there are three things to be considered; whereof two by you the jury, and one by us the court. The first thing under your consideration is, whether the defendant is guilty of publishing this Craftsman or not. The second is, whether the expressions in that letter refer to his present majesty, and his principal officers and ministers of state, and are applicable to them or not? This is the chief thing in the information; for if you think that these defamatory expressions are not applicable to them, then the defendant is not guilty of what is charged upon him: but if you think that they are applicable to them, then he is guilty, provided you find him to be the publisher of that paper. These are the two matters of fact, that come under your consideration, and of which you are proper judges. But then there is a third thing, to wit, Whether these defamatory expressions amount to a libel or not? This does not belong to the office of the jury, but to the office of the court; because it is a matter of law and not of fact, and of which the court are the only proper judges. If either of the parties is not satisfied, there is redress to be had at another place; for we are not here to invade one another's province, as is now of late a notion among some people, who ought to know better; for matters of law and matters of fact are never to be confounded—I have laid aside the points of law, I mean, whether these defamatory expressions amount to a libel or not; because that can only be determined by the court, and if either party is dissatisfied, there is proper redress to be had at another place. There was one thing more mentioned by the defendant's counsel, which was, there is no room to think that letter libellous, because there could be no malice supposed by inserting it in the Craftsman. But that will not do; for the injury is the same to the person scandalized, whether the letter was inserted out of malice or not. Besides, there is no knowing or proving particular malice, otherwise than from the fact itself; and therefore, if the act imports as much, it is sufficient. So, gentlemen, if you are sensible and convinced that the defendant published that Craftsman of the 2d of January last, and that the defamatory expressions in the letter refer to the ministers of Great Britain, then you ought to find the defendant guilty; but, if you think otherwise, then you ought to find him not guilty."

Such, Sir, were the doctrines of lord chief justice Raymond, and such are the doctrines of lord Mansfield also. Sir Philip Yorke, and Mr. Talbot, the then Attorney and Solicitor General, give likewise the sanction of their great names to this law. Sir Philip Yorke said, "My lord, did ever any man think it necessary to prove every part of the libel, when it is not material whether the matter, or scan-

* See Howell's State Trials, vol. 17, p. 625.

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dalous words, or news in the libel, be true or false?—Gentlemen, if you acquit the defendant, you must say on your oath, that the letter writer did not mean the ministers of Great Britain; and can you say that he did not, and that it is not applicable to them?—Again, it is said, that this cannot be a libel, though the words are understood to be applicable to the persons mentioned in the information: because what is affirmed in the letter can be proved to be true: as to that, I must say, that it is no matter whether the words be true or false, if it is published as a libel, and the prosecution be by indictment or information.—Next, gentlemen, I would have you to observe, that it is no part of your office to consider or determine whether this letter is a libel, or not, (though the defendant's counsel insinuated that it was a part thereof): you are only to consider whether the expressions therein are meant to refer to the present king and his ministers, and are properly applicable to them: but whether this amounts to a libel, or crime, is only the office of a court to determine: for, suppose a man was accused of felony, the court will determine whether it amounts to it or not. It is so in high treason, and all misdemeanors, in which the jury is to determine the facts, and the judges are to determine the crime and the punishment, as being matters of law. And it is confounding the office of the court, and of the jury, to pretend to do otherwise; and it is likewise a perverting of the law. So, gentlemen, I submit it to you, whether you are not convinced in your consciences, that the defendant is the publisher of that Craftsman; and secondly whether you are not likewise convinced, that the expressions in that letter are to be understood of the court and ministers of Great Britain. These are the two things now under your consideration; for, as to the question whether these words amount to a libel, or not, you have nothing to do with that; it being the office of the court to determine whether they do, or do not."

What think you now! Is not this a case in point? Are there now no precedents, no authority for the doctrines in question? Are they still contrary to law and gospel? I fear the learned serjeant has not sufficiently considered the case. Certain I am that, if he has bestowed any time and application upon it, he has only laboured to render himself and his friends ridiculous. For, notwithstanding his confident assertions, it appears that lord Mansfield's doctrine of libels is so far from being novel, that it is ancient, and established from time immemorial, and it is the serjeant's opinion that is novel and new-fangled. Lord Chief Justice Raymond calls it, "a late notion among some people, who ought to know better;" and I think we may very justly apply his words to the promoters of this motion, who ought to know, and, I verily believe do know, that they are at this moment arraigning the avowed and established law of the land. I appeal to the candour and honesty of all the lawyers in opposition, whether lord Mansfield has not in the case of libels followed the universal practice of his predecessors, and expounded the law according to precedent. Has there ever been any objection made in court? Have not the court and bar been always unanimous in approving this practice? What but this is the reason that the learned serjeant never moved in arrest of judgment, and never tried the cause in another place? The thing speaks for itself. Had he not known that the law had been religiously observed, he would have appealed to a higher tribunal.

What then, Sir, could induce him to make a motion for enquiring into the conduct of men whom he knew to be blameless? Why does he attack lord Mansfield for embracing tenets embraced by the dead as well as the living, by Dennison, Yates, and Foster, as well as by Wilmot, Ashurst, and Blackstone? I am ashamed to guess at the motive. Let it rest in his own breast. It seems to be the properest lodging for such a guest. He may call it patriotism. But who will believe him? If I know myself, I am as great a friend to liberty, law, and the constitution, as any man in this House. But I do not think that liberty consists in the power of attempting whatever the violence and impotence of a factious spirit may suggest, but in being subjected to no other master but the law. Nor do I think that law is founded on the whimsies of a distempered imagination, or the dreams of an unenlightened patriot, but on a course of clear and undisputed precedents. As little can I imagine that the constitution is benefited by bringing groundless and ridiculous charges against the judges, or depositaries of the law. For these reasons, I cannot extol the conduct of the supporters of this question. What do they mean? To loosen all the bands of society, and to reduce us to the state of nature? Have not

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their efforts to rouse the spirit of discord proved sufficiently successful already? Have they not set the son against the father, and the wife against the husband? Consider, Sir, the persons, upon whom you make this wanton attack. I know not what you may think of them and their office; but to me they appear sacred and venerable. I never enter their courts but with the same awe and reverence that I enter the temples of the divinity. I think I tread on holy ground. How, then, can I with patience hear them unjustly vilified and traduced? My indignation boils, when the cant of patriotism dares to profane those inviolable names and characters which I so highly reverence, and almost adore. I penetrate their dark designs; and in their success I foresee the downfal of the state; for it cannot a moment survive the ruin of the laws, and of the judges who support them. But who can be so weak as to imagine that they will succeed? Only two judges are accused. One has been satisfactorily justified, by an hon. gentleman who sits near me. No man has been hardy enough to contradict him. The other I have vindicated in such a manner, I believe, that, if opposition has any grace left, it will not attempt a reply.

What is the result of the whole? Two judges only being arraigned, and these two being fully vindicated, there remains not the shadow of a pretence for an enquiry. And if, after all, we do enquire, we shall become truly ridiculous and contemptible. We may then be well supposed destitute of all honour, all justice, all integrity. The press will, with reason, teem with satires, libels, and lampoons. We shall, indeed, become the just objects of abusive epigrams, puns, and pasquinades. No room will be left for complaining of Grub-street, for pouring out its thousands of songs and ballads, nor of Pater-noster-row for vomiting its tens of thousands of pamphlets and news-papers. In order to prevent this catastrophe, this anarchy and confusion, which would necessarily follow the enquiry, let us reject the motion with the contempt which it deserves. Thus will you preserve the character of a steady and upright House of Commons, thus will you remove the jealousies and discontents of the people; thus will you be loved and honoured by the present age, and esteemed and reverenced by posterity. View this picture, and adopt the enquiry if you can.

Mr. Serjeant *Glynn* rose to thank sir Gilbert Elliot for coming a little nearer to the question than the gentlemen on the Treasury side of the House, who spoke before him, had chosen to do. He said he thanked him for changing the nature at least of the succeeding part of the debate, and preventing the gentlemen from continuing to call the ground of his motion nothing but idle reports and ill-founded rumour. He thanked him, too, for dispensing with the necessity of calling witnesses to the delivery of these doctrines; and for having borne his testimony to the truth of the reports:—Sir Gilbert knows from the best authority, he tells us, "that these are the doctrines delivered." Mr. Glynn said, it was more manly to avow them in that manner, and more friendly to the judge who was supposed to have delivered these doctrines, than to shuffle in the manner of the other gentlemen, as if they were ashamed to own them, as if they did not dare to look such tenets in the face. He said, they had now at least got something to go upon in the debate; the doctrines now, he supposed, must be avowed and defended by the gentlemen on the other side of the House, who hitherto had kept so cautiously aloof. He said he would meet the gentleman on his own ground, the Trial of Franklin. And first, for the chief Justice Raymond: he says, according to the authority which the gentleman has quoted, that "it is not material whether the facts charged in a libel be true or false, if the prosecution is by indictment or information, he will not allow of any evidence to prove the truth of them:" and he says this is "only abiding by what has been formerly done in other cases of the like nature." Sir Gilbert says "these and the other doctrines are the known and received law of the land, acknowledged by all the gentlemen at the bar, and never complained of at any time." In my opinion, said Mr. Glynn, the very contrary appears from this very trial. And first, the counsel for the defendant do by no means admit these doctrines.

Mr. Bootle, speaking to the jury, says, "Gentlemen, the information contains two charges with regard to this paper: the first is for spreading false news; and the second is for publishing a false, scandalous, and seditious libel. As these things are only asserted and averred in the information, it is incumbent on them to prove them.—Again, I suppose for argument sake, that though you should be of opi-

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nion that this piece of foreign news is a libel or scandal upon his majesty's officers or ministers; yet I submit it to you, whether you can say, on your oaths, that it does amount to a false, scandalous, and seditious libel, as it is asserted and averred in the information? And I submit it to you whether it is not incumbent on them to prove that it is false, scandalous, and seditious, before you can find it by your verdict to be so.—Let us suppose that, &c.—then to be sure, the allegation was true, and therefore could not be false, scandalous, or seditious."

After the Chief Justice had given it as his opinion, that true or false it was the same thing; that he would admit no evidence about it; and that, in so doing, he was only abiding by what had been formerly done in other cases of the like nature; Mr. Bootle replied, "My lord, then I must submit it to your lordship, whether this will not tend to the utter suppression of the liberty of the press, which hath been so beneficial to the nation in general? And, my lord, I humbly apprehend, though a publisher of news happens to be mistaken in what he publishes, it cannot be called malicious nor seditious, but only an error committed through ignorance or misrepresentation of his correspondents. Again, my lord, if the defendant is not allowed to bring in his evidence, that some part of his news are true, then if he is found guilty, he is found guilty of all that is charged on him in the information, though he is only guilty of part thereof. I think this evidence will be allowed between particular persons with relation to their private affairs; for they will not be found guilty of the whole, when they are only guilty of a part; and why should not the same be allowed with respect to public affairs? As the Star-chamber is now abolished, I do not know how far that doctrine may be adhered to. I should be glad to have one instance or authority of this, and of there being no need to prove news to be true: and also where a publisher of news is not allowed to say that this piece of news is true, because it relates to the public affairs of the nation. Is there no distinction to be made between false news and true news? And cannot we now animadvert or take notice of the public affairs, and insert them in the papers as well as formerly? If this is the case, it will be of dangerous and fatal consequence indeed, if matters of state, or public affairs, are not to be meddled with, or inserted in the newspapers, notwithstanding they are true, but at the peril of him that does it. They may as well at once take away the liberty of the press; and then we shall all live in darkness and ignorance, which may occasion disorders enough in the nation. Therefore I submit it to your lordship whether this will not be of dangerous conquence to punish a person for publishing true news as well as false; and whether it can be justly said in the information that the defendant intended to publish false news?"

After this Mr. Strange, of counsel also for the defendant, far from being satisfied with, or acquiescing to the Chief Justice's opinion, said, "The next part of our evidence shall be to prove that we have published true news, and not false as charged in the information." Lord Chief Justice. "I am very well satisfied that I cannot admit it. I have given Mr. Bootle my opinion already about it; and if it is not according to their liking, they know where to apply to have it rectified." Mr. Bootle. "My lord, in effect it hath been called an absurdity to think, that speaking the truth of any magistrate, or other public person, in the news, can go unpunished; because if that magistrate, or public person, have done any injury, then it was said, that there is a remedy provided another way than by publicly exposing him and defaming his character; as well as there is a remedy provided for having satisfaction of a private person for any injury done by him, without scandalizing him directly or indirectly in any public paper. But I should be glad to know how it must be gone about." To all this, instead of any reasoning, instead of giving any one instance or authority for this doctrine (which Mr. Bootle called upon him to give), the Chief Justice contented himself with saying—"I am of the same opinion as before." Notwithstanding this repetition of the Chief Justice's opinion, Mr. Taylor, also of counsel for the defendant, does afterwards say to the jury—"The facts which you, gentlemen, are to try, are, whether the defendant, Mr. Franklin, printed and published this paper; and whether you can, upon your oath, say that it is a false, scandalous, and seditious libel."

I think, said Mr. Glynn, it is very plain from hence, that lord chief justice Raymond's doctrine, about truth and falsehood, was not the known, received, and acknowledged law of the land; that the counsel did not acquiesce to it; but, on

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the contrary, did revolt at it, did refuse to acknowledge it, and in their answers to the Chief Justice, carried their complaints to the utmost verge of decency. Nor did the Chief Justice establish his doctrine by any instance or authority, though called upon by Mr. Bootle to do so. And shall this unfounded, unsupported, unreceived opinion, established neither on the principles of law nor reason—shall it be supposed to have gained in the space of thirty or forty years, solidity and settlement enough to become itself a foundation? A foundation on which to build so ponderous and enormous a mass of injustice and absurdity as the doctrine now contended for? But to proceed to the other positions of lord chief justice Raymond. He says, "the two matters of fact for the jury's consideration are, the publication, and the application or reference of the expressions: that, whether the defamatory expressions amount to a libel or not, this does not belong to the office of the jury, but to the office of the court; because it is a matter of law and not of fact, and of which the court are the only proper judges." He says besides, that to say the letter is "not libellous, because there could be no malice supposed, will not do." And he gives these two reasons why it will not do. "For, says he, the injury is the same to the person scandalized, whether the letter was inserted out of malice or not.—Besides, there is no knowing or proving particular malice, otherwise than from the act itself."

I shall here, said Mr. Glynn, first take notice that in his charge to the jury, which is not a very long one, the Chief Justice, seven times over, calls the expressions of the letter defamatory expressions; another time he calls them scandalous expressions; another time dark, defamatory expressions; and another time very scandalous and reflecting expressions; and he says they are very scandalous and reflecting, "because they charge his present majesty, and his principal ministers of state, if they mean them, with perfidy in breaking of treaties, ruining, in a manner, their country," &c. as you may see at large in the letter.

Now I should be glad to know, said Mr. Glynn, by what authority the Chief Justice called these expressions dark, defamatory, scandalous, very scandalous, and reflecting? When was that point determined? Who had determined it? Not the jury; for they had not yet given a verdict. Not the court, for the court had given no opinion. By whom then had the expressions been found to be defamatory, &c.? By the Attorney General, who filed the information.—But, suppose such were the Attorney General's power over the subjects of this land, that whatever he calls scandalous, defamatory, &c. is to pass for such; to what end does the Chief Justice call the expressions so to the jury, who, according to him, are only to find the publication of the paper, and the application of the expressions; but who have nothing to do with the nature of the expressions; whose province it is not to know or consider whether the expressions are or are not scandalous and defamatory? Why does the Chief Justice tell them that the expressions in the letter convey a charge of "perfidy in breaking of treaties, ruining in a manner their country, &c." Has he not told them, that it is not for their consideration whether the expressions "amount to a libel or not?" that is, whether they are what he terms them, "scandalous, defamatory, reflecting, or not?"—Why does the Chief Justice add,—"As you may see at large in the letter?" Has he not told them, "it is no part of their office to see any such thing in the letter?" that it "does not belong to the jury, but to the court? that it is a matter of law, not of fact?" Again, why does he tell the jury "that it will not do to say the letter is not libellous, because there could be no malice supposed?" According to his doctrine, the jury are not to consider what is essential to a libel, and whether malice makes the letter libellous or not. Why then will he, who would not suffer one word or moment to be employed about the truth of the letter, because, as he said, it was not material or pertinent; why would he spend his own words and time in telling the jury what would and what would not make a letter libellous? which point, according to his own doctrine, was no more pertinent to or concerned in the verdict of the jury than the other. It is evident, in these parts of his charge, the judge contradicts and forgets his own doctrine. He is guilty of the same contradiction and forgetfulness throughout the whole trial, wherever he thinks it will serve to get a verdict of guilty from the jury, which was evidently the sole aim of the judge: for though he will not admit of any evidence to prove the truth of the allegations in the letter, nor give ear to any thing tending to prove the publication not malicious, and the

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letter itself not scandalous and seditious; yet he suffers the counsel for the crown to use every argument of aggravation, touching the malice, the sedition, and the scandal of the letter; nay he helps them out himself, and declares the expressions to be scandalous, dark, defamatory, very scandalous, and reflecting; and he permits the counsel for the crown to spend two hours in examining witnesses and papers, tending only to prove the falsehood of an insinuated charge in that letter against the ministers; and when he finds at last that they cannot bring proper proof for their purpose, he asks the Attorney General—"Is this essential or not?" The Attorney General, well understanding the hint of the judge (as well as hints are too often now understood amongst us), and knowing the whole inability to bring sufficient proof of the point he had been so long contending, answers—"No."—"Why then," replies the Chief Justice, "hath there been almost two hours spent about it?" And I ask, said Mr. Glynn, why was there a moment spent about it? Why was not the Chief Justice as quick and as ready to prevent the aggravations of falsehood, malice, scandal, and sedition, urged throughout the trial by the counsel for the crown; as he was instant to stop the counsel for the defendant from urging the alleviating circumstances of truth, no malice, no scandal, no sedition? If this doctrine had been true, that the charge of falsehood was immaterial, and that the jury had nothing to do with the consideration of the malice, the scandal, and the sedition of the paper, why suffer them to be insisted on and pressed upon the jury? They ought not to have been mentioned at all; the jury ought not to have been prejudiced by them, since their verdict was to be confined to simple publication and application. At least the judge who suffers aggravations to be used, which are impertinent to the question before the jury, and yet by which the jury may be prejudiced, ought at least to hear the alleviating circumstances in answer, which may serve to take off the prejudice. And though the chief justices Raymond and Mansfield say, that truth is not material, I think it will not be denied to be at least an alleviation. When I say I think it will not, I am mistaken: I should say it ought not; for I know it has been said, that, so far from an alleviation, it is an aggravation, and that a thing may be more a libel because true. However, though some judges may chuse to consider truth in a criminal light, I am well persuaded that it will always continue to be thought at least an alleviation by juries. But if this be really the case, if truth is an aggravation, why do not the counsel for the crown always urge the truth amongst their other aggravations? why do they always, on the contrary, urge the falsehood? By what accident came the word 'false' to slip in and be retained in all the informations ever yet brought, till within the last seven years? How happened it that the law made in the 3d of Edward the 1st, in 1275, entitled, "An Act that none shall report slanderous news whereby discord may arise," how happened it to be expressed in these words—"Forasmuch as there have been oftentimes found in the country devisors of tales, &c. it is commanded that from henceforth none be so hardy to tell or publish any false news or tales, &c."

It is very plain, that both the counsel urging falsehood, and the original framers of informations, and those who made the law of Edward the 1st, all thought falsehood a very material, if not the chief part of the charge. And why, if the jury are not to judge whether the paper in question is or is not a libel, why should the chief justices Raymond and Mansfield tell the jury, that the paper is not less a libel because true? Why instruct the jury concerning the nature of a libel, if the jury have nothing to do with that, if it is no part of their office to determine whether it is a libel or not?

But it has been said, that these doctrines have the sanction of sir Philip Yorke and Mr. Talbot, the then Attorney and Solicitor General. It appears to me that the very contrary may be gathered from this very trial. The Attorney General says—"My lord, and gentlemen of the jury, &c. The present libel will appear to be a libel of that nature, and attended with the most aggravating circumstances of any ever yet published, &c. Here is a plain charge of perfidy.—Gentlemen, you may plainly observe here, that this is a positive charge of perfidy and breach of faith. Gentlemen, this is a direct charge of perfidy in the strongest terms.—Gentlemen, this is the nature and import of the libel; and whoever it is that is charged with these things, it is plain that there cannot be a more evident charge of perfidiousness, and pursuing measures destructive of their country. I

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would not be thought to mean that every reader understands it as a libel, or a scandalous libel, as courts and juries do. Besides it is very well known, that there have been several cases of this nature that have been understood by the court and jury as such, I mean as a libel. A libel may be written under feigned names, and yet plainly understood; as in the case of Mr. Mist's Journal in 1728, wherein the fictitious names of Esreff and Sophy of Persia were inserted; yet when it came to be tried by a jury, they understood it, as every honest man would, to be a scandalous libel. There is a distinction between an action and an indictment; every thing in an action in case of contradiction, ought to be proved; but if there be an allegation in an indictment, and that the crime may remain without it, it is well known that that allegation is not necessary to be proved; and it is sufficient enough to prove him guilty of the crime he is indicted for. I shall now go on to prove that part of the libel which relates to Mr. Franklin's publishing the Craftsman. I do say, that in the cases mentioned in the 5th of Coke's Reports, &c. the first says, that every libel is made either against a private man, or against a magistrate or public person. It hath been said, that the defendant is a publisher of news, and that this letter was sent him from the Hague: as to that I do say, that if this letter had been really sent to him from the Hague, it would be still a libel; because it is not in his power to publish what he pleases, or what may be construed defamatory; for it is no part of his trade to scandalize whom he pleases. Then they say, if this piece of news is deemed as a libel, it will have a bad consequence; for no person will print any news at all, and then the people will not know how things or affairs go: this is very extraordinary indeed, for the defendant is not charged in the information for publishing the piece of pretended news; no, but he is charged for making an application, and saying that the ministers are guilty of perfidy, and ruining their country. Gentlemen, I would have you to consider, that even the prerogatives of the king are founded on the law, and limited by it, and so are all other things relating to his subjects; and it cannot be supposed that a printer only is exempted: he may lawfully print and publish what belongs to his own trade; but he is not to publish any thing reflecting on the character, and reputation, and administration of his majesty and his ministers; to scandalize and libel people is no part of his trade; if he breaks the law, or exceeds that liberty of the press, he is to be punished for it, as well as for breaking other laws or liberties."

What I have just now repeated, said Mr. Glynn, and which I have collected carefully from sir Philip Yorke's pleading in the trial of Franklin, you will observe is all directed to the jury. He tells the jury it will appear to them to be a libel, aggravated with circumstances. He tells the jury the nature and import of the libel. He tells the jury that they may observe a charge of perfidy, &c. He says he does not mean that every reader understands it as a scandalous libel, as courts and juries do. He says, several cases of this nature have been understood as a libel by the court and jury.

Speaking of the verdict of guilty given in the case of Mist's Journal, he says, "the jury understood it to be a scandalous libel." Nay he goes farther, and says, "every honest man would understand it as such;" which does not represent the point of libel, or no libel, as so very difficult a matter to decide; for every honest man could decide it. He says, "that in an indictment an allegation is not material, if the crime may remain without it; but it is not sufficient unless enough remains to prove him guilty of the crime:" now, I suppose, said Mr. Glynn, I shall not be contradicted in saying that mere printing and publishing is not a crime; libel is the crime, libel therefore must be found by the jury. But if my word will not pass even for so evident a truth; if the gentleman who spoke last will have the sanction of some great name to this assertion, that mere printing and publishing is not a crime, let him take the name he has quoted: sir Philip Yorke tells the jury, "that Franklin is not charged for publishing; no, but for saying that the ministers are guilty of perfidy, &c." Again, he says to the jury, "Gentlemen, you are to consider that he may lawfully print and publish, but he is not to publish any thing reflecting on the character, &c. To scandalize and libel is no part of his trade. If he breaks the law, or exceeds the liberty of the press, he is to be punished for it, as well as for breaking other laws or liberties."

I need not, said Mr. Glynn, here repeat the observations I made on the Chief Justice. It is plain that the Attorney General endeavoured to convince the jury that

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it was a false, scandalous, malicious libel; and did not confine himself to publication and application. If afterwards, in order to gain a verdict, he took readily the hints of the Chief Justice, and against his own judgment laid down points for law—(as he upon those points, and those only, in a very marked and well understood manner, says,) "with great submission to his lordship"—it must be considered what management advocates (who do not like the judges to speak *ex cathedra*) use for their clients; and it must likewise be considered for what client was this done; a client who afterwards raised him to those high dignities which add not a little to the propriety of sir Gilbert's quoting the sanction of his great name.

But if great names would give a sanction to this doctrine, sir Gilbert surely would not have stopped where he did, but would have shewn moreover to the House how entirely lord Mansfield has coincided with the principles of Jefferies, and the practice of Scroggs. But before the gentleman builds upon the authority of sir Philip Yorke, he would do well to produce some instance in which, sitting as a judge, he maintained the same doctrine, and this I will be bold to say he cannot produce.

Mr. Talbot, though Solicitor General and counsel for the crown, gives no sanction to this latter doctrine. His whole pleading contradicts it strongly, and shews plainly, as well as the Attorney General's, that it was not thought to be law by the bar. He says, "This libel is against his majesty, his principal officers and ministers of state, under the colour of an extract of a private letter from the Hague; but let it be real or fictitious, it is the same thing if it be a libel, and the subject matter thereof is against the government, and of a malicious, injurious, and seditious design, &c.; and, indeed, for what other purposes can it be supposed to have been published, but for these of sowing sedition and jealousy, and disturbing the public peace? Gentlemen, I hope it now plainly appears to you, that this pretended Hague letter is a libel, and I may say, a very malicious and seditious one too. If any thing may be called a libel, surely ministers of state perfidiously exposing their country, &c. may well be called a libel, especially when the libel also carries in it the highest charge against his majesty's government, and tending to sow sedition, &c. and thereby disturbing the public peace. That which remains is, of whom are these defamatory things said, &c. I apprehend it will appear plain to you to be a libel; and that the expressions are meant of his majesty and his ministers; and if so, then there remains only one thing, and that is to fix it on the defendant."

The above words of the Solicitor General, said Mr. Glynn, speak plainly enough of themselves, so that I shall not need to delay you with any observations thereon. The pleading of the defendant's counsel shews likewise, that they apprehend as little of this doctrine as the counsel for the crown. Mr. Fazakerly, of counsel for the defendant, says to the jury, "Do you think that the defendant did it out of a criminal design, as the counsel on the other side have alledged, and endeavoured to make out, though I think they have not proved it? Next take notice, that there are a great many aggravations in the information: so that if you find the verdict general, then these aggravations must be published on record, and he punished for them. I shall go on to make a few observations on the rest of the matter charged; to wit, that he intended to disturb the public peace, to traduce and vilify, &c. I apprehend there is nothing in this paper that shews any design of reflecting, &c."

Mr. Bootle, of counsel also for the defendant, addressing himself to the jury, says, "The case hath been fully opened by the gentlemen on the other side, with many aggravations pretended to be attending it. Though you should be of opinion that this piece of foreign news is a libel, or scandal, &c. yet I submit it to you whether you can say, on your oaths, that it does amount to a false, scandalous, and seditious libel, as it is asserted and averred by an innuendo in the information? And whether it is not incumbent on them to prove it false, scandalous, and seditious, before you can find it by your verdict to be so?"

From these citations it is plain, said Mr. Glynn, that not only the counsel for the defendant, but the counsel for the crown also thought the scandal, the malice, and sedition, or, what amounts to the same thing, the question of libel was to be found by the jury: it is likewise plain that the judge contradicted himself; and that if his doctrine was right, his whole conduct throughout the trial was wrong; and it looks very much as if the judge knew himself to be wrong; for it is not usual for judges, on other occasions, to make the professions which chief justice Raymond

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did then, and which lord Mansfield has done since, about these doctrines. In one place lord Raymond says, "I shall not go contrary to my own conscience, nor overturn the opinion of those before me; if you think otherwise you know where to apply to." In another place he says, "I am only abiding by what has been formerly done in other cases of the like nature; if you think it wrong, apply to the court, and they will do you justice." In another place, he says, "I have given my opinion, and if it is not according to their liking, they know where to apply to have it rectified." In another place, he says, "There is redress to be had at another place, if either of the parties are not satisfied; for we are not to invade one another's province, as is now of late a notion among some people who ought to know better." And in another place, he says, "If not satisfactory to either of the parties, there is a proper redress to be had at another place, as I said before."

Now, said Mr. Glynn, why should he or lord Mansfield so often repeat the redress which might be had, but because they knew the doctrine was not satisfactory to the counsel? And why should they talk affectedly if either of the parties were not satisfied? The Chief Justice knew full well with which of the parties the dissatisfaction remained; they knew the crown would not be dissatisfied with this doctrine. The profession of a chief justice from the Bench, that he will not go contrary to his own conscience, is no compliment to himself. Why should the Chief Justice repeat, that he will not overturn the opinions of those before him; and that he was only abiding by what had been done in other cases of the like nature. Precedents of those cases would have given more satisfaction than his professions. Had many chief justices like lord Mansfield preceded him, lord Raymond would not have been so hard pressed for instances and authorities. This case of Franklin, said Mr. Glynn, furnishes abundant matter for many other reflections subversive of the doctrines it has been quoted to support; but I fear I have already detained the House too long on this trial, and may safely leave the gentleman to make the most of his precedents.

Mr. *Constantine Phipps*:

Sir; were the doctrines now under our consideration nothing but the hasty, unpremeditated exertions of a rash, violent and passionate spirit, to me they would have a less formidable aspect. I would look upon them as transitory gusts of ill humour, which would vanish like a flash of lightning, and leave no trace behind. Being without any foundation but the caprice of their author, they would be without consequence, without danger. No future lawyer would quote them as precedents, on which he might erect a system of tyranny. But as they are the deliberate dogmas of a cool, circumspect, and subtle precedent-hunter, not surprised by any unforeseen emergence, or sudden fit of passion, but left to the calm suggestions of reflection, they seem to me to portend the most pernicious effects. If after being so long, and so anxiously discussed in this House, they should now pass without censure, they will become indeed the established law of the land. The gentlemen of the long robe will be ready enough to make their court to ministers by adopting them. Such complaisance they will hardly think too high a price for the chancellorship. What then will become of the liberty of the press? The new doctrine leaves it entirely at the mercy of the judge. For, as he is to determine the malice or innocence of intention in every case, the jurors are of no use but in deciding the publication and application, points which are seldom controverted; and the culprit is in fact condemned without being tried by his peers, as the most essential point is left out of the question. We are now taught, that, when a man is found guilty of printing and publishing he is generally found guilty, and it is so to be entered up. What can be more iniquitous? He is found guilty of the whole charge by the judge, though the jury found him guilty only of part! The charge always imputes a malicious intention to the person, and scandal and falshood to the thing. The jury find neither, and yet the judge concludes them found, because he says they are an inference of law! What is this but a mockery of the jury, and of common sense? Why should the profession of a bookseller be thus outlawed and stamped with a mark of reprobation? Is the liberty of the press, which used to be deemed one bulwark of the constitution, become of so little value as to be thus relinquished without a struggle? Are juries, who were always reckoned the other, become so insignificant that it is not worth our while to contend for their constitutional powers? Must we tamely see both

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retrenched and frittered away by an artful prerogative lawyer? He can quote precedents, I own. But what precedents? Not those of good note and authority, but those of ill fame, those that are too obscure to be known to the best informed lawyers. I cannot therefore but wonder at that depravity of heart, which could first search and then pitch upon the bad precedent, when he saw the good one at his side. He puts me in mind of lord Bacon, and were I a stickler for the transmigration of souls, I might think both their bodies animated with the same spirit. For, though I have no personal knowledge of the noble lord, I trust to the information of others, and give him credit for abilities; and it is for this reason I call him the greatest and the meanest of mankind. What but sinister motives could have induced him, in Woodfall's case, to have appointed a new trial? If the jury did not condemn, they must have absolutely acquitted. There is no medium. Guilty or Not Guilty, which must always be the expressions of a verdict, explicitly determine this point. But why do I thus analyze particular instances of his conduct? Were I to enumerate all that are exceptionable I should never have done. I should exhaust the patience of the House. Let me then come to the general objects, which have been constantly held before our eyes during the course of the debate. The only objections made against the enquiry are, that there is no specific charge against individuals, and that the enquiry is too general and extensive. But have we no precedents for a general enquiry without any previous charge against particular persons? On the 15th of November 1667, the House ordered, that the committee concerning juries should be empowered to enquire into the miscarriages of judges and juries, in civil cases as well as criminal. Many similar instances might be produced; but I forbear to mention them, because they must be known to the very opposers of the motion, and would therefore be nauseous to both parties. If then you chuse to reject this enquiry, it is not because there is a lack of precedents. These, as well as reason and justice, are clear and explicit in its favour. I remember the time when you were not so fond of specific charges. Recollect Wilkes's petition. It was full of particular charges; but you did not chuse to be so particular as to take each under your consideration. You garbled it. You picked out such articles as you hoped to find grounds for voting frivolous. Had it been a general charge, I doubt not but you would have paid the same compliment to the whole. General charges were not then so exceptionable in your eyes. You have now acquired a new light. The rays of the court favour have illumined the dark lanthorn of some gentlemen's understanding. I rejoice exceedingly to see them so docile, so open to conviction. Their opinions vibrate backwards and forwards, and are almost as steady as the pendulum of a clock.

Mr. *Thomas Townshend:*

Sir; we have been long enough engaged in skirmishing and in throwing missile weapons at a distance. It is now full time that we should come to a close fight, and make the light troops give way to the legionary soldiers. The vain and fruitless dispute concerning general and specific charges, ought long ago to have been at an end. The opposers of the motion should have had honesty enough to have owned the justice of the charges preferred, and its supporters should have been bold enough to have named the criminals as well as the crimes, and to have stood forth as witnesses of doctrines which they must have heard with their own ears. The last speaker but two has brought the affair to this crisis! He has fairly avowed the arraigned doctrines. Nothing therefore remains but to determine, whether they are to be approved or condemned. That they must, or at least should, be condemned, is to me a very obvious point. For let me ask you this plain question. Are they constitutional? If they are not, if they are, on the contrary, diametrically opposite to the genius and spirit of liberty, I hope there is nobody here hardy or abandoned enough to give them countenance. Now that they are subversive of liberty, and indeed of the whole system of our jurisprudence, I will take upon me to demonstrate.

I conceive, then, that the liberty of the press, and the institution of juries, are the two grand palladiums of the constitution, and that, when they are gone, there is nothing left worth preserving. Life and fortune become so precarious, that they can have little relish for those who knew and once enjoyed the sweets of absolute security and legal protection. But will any one pretend to tell me, that the liberty of the press remains entire and undiminished, when a judge, when any single

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man, is to determine what is or is not a libel? We have heard much of late said of discretion and arbitrary decisions. If this be not discretion and arbitrary decision, I must acknowledge myself totally ignorant of the matter. Let us even suppose a judge not to be influenced by the crown, yet no man can think themselves safe in the hands of an individual, who is bound by no rule but his own discretion. In such a situation, an angel would be suspected; nor would satisfaction be given by a god. How much less can we expect such a desirable event from the wisdom or goodness of a frail man, who is biassed by his own interest, and solicited by a promising court!

Our ancestors, foreseeing this danger, instituted juries; who could be under no temptation to incline to any side, but to that of equal and impartial justice. But what avails this institution, if the jury is deprived of the most essential part of its authority? Where is the use of enclosing twelve men, if they are not to judge of the malice or innocence of the culprit's intention in committing the crime, of which he is accused? They are only to decide whether he printed and published, and whether the charges in the information are applicable to the persons there pointed out; but not, whether what he printed, published, and applied, be criminal or not. Would it not have been more rational to have, from the first, left to the judge the whole and sole determination of the affair? Certainly; for it is evident that the intervention of a jury is a mere farce, when they are not allowed to take under their cognizance what constitutes the essence of the crime. The introduction of this doctrine into the system of our jurisprudence is the more inexcusable, that juries are as capable of determining the point of law in cases of libels, as the most jesuitical splitter of cases in Westminster-hall. For all the law that is here to be unravelled is, the malice or innocence of the culprit's intention; and I shall be glad to know, why a juryman is not as capable of it as lord Mansfield. If this were not fact, why should jurors be deemed good judges of the intention in cases of life and death. There it is evident that the intention comes under their consideration; for murder and robbery, except they are proved to be intentional or prepense, acquire the names of man-slaughter and trespass. And why a jury should be held capable of determining the law in points of the greatest moment, incapable in the least, is to me inscrutable mystery: this opinion I advanced on a former occasion; and I still adhere to it, being more and more confirmed in it, the more I weigh it in the scale of reason. The only solution which occurred to me was, that corrupt ministers and temporising judges, finding, as lord Hardwicke once declared, juries could not be trusted in cases between the crown and the subject, gradually introduced this doctrine of state libels, which is so favourable to government, but so injurious to the nation, in direct opposition to Magna Charta, and the genius of liberty.

Mr. *Charles Fox*:

Sir; we are told by the abettors of this motion, that jealousies, murmurs, and discontents increase and multiply throughout the nation; that the people are under terrible apprehensions that the law is perverted, that juries are deprived of their constitutional powers, that the courts of justice are not sound and untainted; in a word, that the judges have, like a dozen of monstrous Patagonian giants, either swallowed, or are going to swallow up both law and gospel. And how do they prove the truth of these allegations? The manner is pleasant enough. They refer us to their own libellous remonstrances, and to those infamous lampoons and satires, which they have taken care to write and circulate. They modestly substitute themselves in the place of the nation, and call their own complaints and grievances the grievances of England. Their meaning is plain enough, and we understand perfectly how all their grievances might be redressed. For my part, I am not disposed to take the voice of a miserable faction for the voice of my country. Were the people really dissatisfied, I should be glad to know how I am to ascertain the reality of that dissatisfaction? I must freely confess that I know no other way but that of consulting this House. Here the people are represented, and here is their voice expressed. There is no other criterion but the majority of this assembly, by which we can judge of their sentiments. This man, in order to answer one purpose, and that man, in order to answer another, will tell you, that a general cry has gone abroad against certain men and measures: but will you be so credulous as to take him upon his word, when you can easily penetrate his interested views, and find him the original and prime mover of all the cla-

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mour? I can easily trace the authors of the outcry raised against the Judges; and I would point them out, had not they, as well as their selfish ends, been already exposed in all their deformity. Why, then, should we hesitate to put a negative upon a question, which sprung from such a low source? From dirt it came, and to dirt let it return. As to myself, I certainly will, as I can never acknowledge for the voice of the nation what is not echoed by the majority of this House; and I do not find that the majority of us entertain any suspicious, much less terrible apprehensions, of the Judges; though, if there were any just foundation for complaint, we must certainly have been better informed of it than the people.

Indeed, if the adoption of this enquiry would answer any good purpose, I should not be such a violent opposer, convinced as I am that the Judges are blameless. But I am fully persuaded that would not be the case. For, as I have shewn, it would be an attempt to remove discontents which do not exist but among those who have generated, fostered, and reared them up to their present magnitude, and would not therefore, be satisfied, though justice, though Astrea herself, should descend naked from heaven to exculpate our Judges. And, what is more, it would, on their own principles, prove fruitless and nugatory, even if we suppose the people to be really discontented. For what have they been doing for these two last years, but ringing constantly in our ears the contempt in which we are held by the people? Have not they made these walls incessantly echo with the terms of reproach, which they alledged were cast upon us by men of every degree, by high and low, rich and poor, learned and unlearned? Were we not, and are we not still, according to their account, held in universal detestation and abhorrence? Does not the whole empire, from one end to the other, reckon us equally weak and wicked? In a word, are we not become an abomination in the land? Such is the language of the minority. How then can they, with a serious face, desire us to undertake this enquiry, in order to satisfy the people? The people, if their former assertions are to be credited, will receive no good at our hands. They will regard what we say no more than the prattle of a knot of coffee-house politicians. We are too ridiculous as well as odious to do any thing that will appear gracious in their eyes. What is the conclusion to be drawn? Let us satisfy ourselves. Let us act according to the dictates of honour and conscience, and be at peace with our own minds. It is thus that we shall sooner or later regain the confidence of our constituents, if we have lost it; and not by humouring, as foolish nurses humour great lubberly boys, the wayward whims of a misled multitude. The characteristic of this House should be a firm and manly steadiness, an unshaken perseverance in the pursuit of great and noble plans of general utility, and not a wavering inconstant fluctuation of councils, regulated by the shifting of the popular breeze. If we are not to judge for ourselves, but to be ever at the command of the vulgar and their capricious shouts and hisses, I cannot see what advantage the nation will reap from a representative body, which they might not have reaped from a tumultuous assembly of themselves, collected at random on Salisbury plain or Runnymede. And it is very well known, that such an irregular and riotous crowd are but very ill qualified to judge, truly of their own interest, or to pursue it, even when they form a right judgment. They are but very unsteady guardians of liberty and property. Do you want proofs? Consult the English history, and you will find them in every page.

Mr. *Edmund Burke:*

Sir; the subject of our present debate is, in my opinion, a matter of a very serious and important nature; and it is not therefore to be dismissed without mature deliberation. The hon. gentleman who introduced it, boldly arraigns the general conduct of our courts of justice; and the gentleman who seconded him, as boldly arraigns the conduct of a particular judge. Either charge should be alone sufficient to excite our closest attention. What effect, then, ought both in conjunction to produce? They ought to impel us, if not to an enquiry, at least to a minute and elaborate discussion. For what has the mover of the question arraigned? He has arraigned the general principles of jurisprudence now adopted by our judges, and has, in his way, proved them not only unconstitutional, but illegal. He has laid before you two heads of accusation, two points, in which, he conceives, the judges have not done their duty. These two points are a rule of law and a rule of evidence authorised, as he asserts, neither by precedent nor by the spirit of liberty.

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First he tells you that judges act illegally and unconstitutionally, in directing juries not to take cognizance of the malice or innocence of a culprit's intention in cases of libels; and, secondly, he tells you, that in cases of libel, they act illegally and unconstitutionally in acquainting the jury that the law infers guilt from the *prima facie* evidence; a position by which masters become, even in criminal cases, responsible for the conduct of their servants.

Sir, these are the doctrines which the hon. gentleman arraigns, and which are now in issue before you. He asserts, that they are not sanctioned by precedent. But here his reading seems not to have been sufficiently extensive. There are precedents, and those too, I fear, of too much weight and authority. You have heard lord chief justice Raymond's words quoted, and nothing can be more explicit than they are in favour of these doctrines. What! you will say, can these be the doctrines of lord Raymond, and yet be unknown to the learned serjeant? Why, it is impossible. A case so much in point could never escape his industry and learning; and, to render the thing certain, he gives the assertion a flat contradiction. But I say, that it is not only possible and probable, but certain, and let me tell you, that the way to overturn the credit of grave and universally esteemed historians, is not to give them a flat contradiction. The most positive asseverations of a modern go for nothing, when they are unsupported by the contradictory testimony of some ancient cotemporary author. Was this heresy then adopted as an article of faith, by lord chief justice Raymond? Yes, Sir, it was; the fact is too clear, too well known, to bear dispute. Nor was it an innovation introduced by that great judge. No: he received it as a legacy from still greater judges, and, among the rest, from the very bulwark of the Revolution, lord Holt.

But what though this opinion has been sanctioned by a series of precedents; what though it has been embraced by men as deep skilled in law and casuistry, as remarkable for inflexible patriotism; have not the greatest lawyers, the profoundest casuists, and the staunchest patriots erred? Why, then, should the judges be thought exempted from the common lot of humanity? Why should they be deemed infallible more than other mortals? Believe me, the wisdom of the whole nation can see farther than the sages of Westminster-hall. In a constitutional point, like this, the collective knowledge and penetration of the people at large are more to be depended on than the boasted discernment of all the bar. The reason is clear. Their eyes are not dazzled by the prospect of an opposite interest. The crown has no lure sufficiently tempting to make them forget themselves, and the general good.

Why then, Sir, should not we on this occasion listen to their voice, as it is heard sufficiently loud and distinct? Because, forsooth, they have no voice! Because their sentiments are only to be gathered from the determinations of the majority of this House! Because, after a general election is closed, they have no legal existence, and have therefore no other mouth but that of their representatives!

Strange doctrine! what then is become of petitioning? Are they not legally entitled to that right? You cannot deny it without denying the authority of the Bill of Rights. How, then, can you pretend that they have no legal voice but that of their representatives? They have both a real and a legal voice, and they have uttered that voice. Consult the History of the Reign of George the 3rd. In that performance, which will be an everlasting monument of the folly, incapacity, and pernicious politics of our late and present ministers, you will find it demonstrated, that the majority of Englishmen have petitioned the King, and have consequently expressed their own sentiments by their own mouth, without the intervention of their deputies. By what rule, then, does the majority of this House square its conduct, when it acts in direct opposition to the majority of the people? By that rule of arithmetic, which by its almighty fiat overturned the laws of nature, decreed 296 to be greater than 1146, gave us colonel Luttrell for John Wilkes, a cuckoo in a magpye's nest to suck its eggs.

Sir, that there should be found gentlemen, who would annihilate the people, and acknowledge no other voice but that of this House, is to me not at all surprizing; because the conduct of the most violent sticklers for this doctrine, has not deserved much applause or favour from them. But that they should have renounced reason and common sense, so far as to maintain that the majority of this House is the only organ, by which their sentiments can be expressed, is to me truly surprising. For where, in the name of wonder, should the House acquire the necessary knowledge or

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intelligence? Is it by turning over these musty volumes, or by rummaging these gaudy boxes, which lie on your table? No, Sir, they contain none of these mysteries. How, then, are they to be explored? Is there any virtue or inspiration in these benches or cushions, by which they are communicated? Or does the echo of these walls whisper the secret in your ears? No; but the echo of every other wall, the murmur of every stream, the shouts, aye, and the hoots and hisses of every street in the nation ring it in your ears, and deafen you with their din. 'Deafen you' did I say? Alas! you were deaf before, or rather dead, else you would have heard; for their voice is loud enough to awaken almost the dead. For shame, Sir, let us hear no more such weak reasonings and sophistical refinements. Far from producing conviction, they cannot even extort a smile, except peradventure at the author, who resembles a hunter, that would catch an elephant in toils made of cobweb. The people have a voice of their own, and it must, nay it will be sooner or later heard; and I, as in duty bound, will always exert every nerve, and every power, of which I am master, to hasten the completion of so desirable an event.

Sir, my reverence for the judges, against whom the popular cry is now so loud, will not deter me; because I know all judges are but men. Not only former judges but former juries have erred. Why not the present? Yes, Sir, juries have erred, and they may err again. When they do, I shall be as ready to enquire into their conduct as I am now into that of the judges. Gentlemen may talk of their great respect for juries, and of their readiness to acquiesce in their determinations; but I am not disposed to be so complaisant. I will make no man nor any set of men a compliment of the constitution. It is too valuable an inheritance to be so lightly relinquished. When the actions of juries are praise-worthy, let them be applauded; when they are criminal, let them be punished. Popularity should not be bought at so high a price.

For my own part, let the malicious and the ungenerous say what they will, I am a blind follower of no man, nor a bond slave to any party. I have always acted according to the best information of my judgment and the clear dictates of my conscience. On this occasion I solemnly protest before God, that I entertain no personal enmity against any man, nor have any interested schemes to promote. My sole object in supporting the proposed enquiry is the public welfare, and the acquittal of the judges. For I am satisfied that an acquittal will be the consequence. In acting thus, I think myself their best friend; because no other plan will clear their character. Till this step is taken, in vain do they pretend to superior sanctity; in vain do some gentlemen tread their halls as holy ground, or reverence their courts as the temples of the Divinity. To the people they appear the temples of idols, and false oracles, or rather as the dwellings of truth and justice, converted into dens of thieves and robbers. For what greater robbers can there be, than those who rob men of their laws and liberties? No man here has a greater veneration than I have for doctors of the law; and it is for that reason that I would thus render their characters pure and unsullied as the driven snow. But will any of you pretend that this is at present the case? Are not their temples profaned? Has not pollution entered them, and penetrated even to the Holy of Holies? Are not the priests suspected of being no better than those of Bel and the Dragon, or rather of being worse than those of Baal? And has not, therefore, the fire of the people's wrath almost consumed them? The lightning has pierced their sanctuary, and rent the veil of their temple from the top even unto the bottom. Nothing is whole, nothing is sound. The ten tables of the law are shattered and splintered. The ark of the covenant is lost, and passed into the hands of the uncircumcised. Both they and ye are become an abomination unto the Lord. In order to wash away your sins, let Moses and the prophets ascend Mount Sinai, and bring us down the second table of the law in thunders and lightnings; for in thunders and lightnings the constitution was first, and must now, be established. Let the judges mount up to the source of precedents and decisions, and trace the law clear and unpolluted along the stream of time, and the silent lapse of years. Let them march in procession to this House ushered in by a long train of precedents, and opinions, and lay them all in a bundle in the middle of this room. Then, and not till then, will they stand justified. Then, and not till then, will you stand justified. In vain do you trust to the virtue of the furred gown, or to the magic of that bauble, as Cromwell truly called it. They confer neither real power, nor, what is

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often its parent, a fair character. These desirable possessions are acquired by an upright conduct, and the confidence of the people.

Mr. Attorney General *De Grey*:

Sir; I must say, that I have been much edified by the harangue of the last gentleman who spoke. He has, in my opinion, thrown great light upon the subject in debate. The learned mover of the question, notwithstanding his diffuse oration, left me almost as much in the dark, with regard to different heads of complaint, as if he had never opened his mouth. Of himself he knew nothing. His more learned second, indeed, knew something. He believed a certain individual, whom he very decently named, to be the chief criminal. What with the no-knowledge of the one, and the extensive knowledge of the other, I was left beating the bush for the game of which they were in pursuit. But I could not start it. Involved in the cloud of wind and dust, which they had raised, it eluded my search.

But now, Sir, I begin to penetrate the chaos, and to see light; I begin to distinguish three articles of impeachment. First, it is represented as a great crime in a judge to deny a jury the right of taking cognizance of a culprit's intention in publishing a libel. Secondly, it is alledged to be a heinous offence to confine a jury to the narrow limits of finding only the simple fact of publication, and the bare application. Thirdly, it is pretended to be a high misdemeanour to tell a jury that the law infers guilt from the *prima facie* or intuitive evidence. These charges have been made during the course of the debate; it matters not by whom; they have dropt somewhere in this House.

Now, Sir, the two first of them are evidently reducible to one and the same charge; because, if you remove the first, which is the great stumbling-block of patriotism, the second is removed of course. It cannot afterwards exist a moment even in imagination. But let me ask you, whether the first point has not been proved to your satisfaction to be legal? Has not the hon. gentleman, who sits near me, fairly silenced the clamorous tongue of oppression, and with the strength of his arguments, and the power of his eloquence, made even the bold front of patriotism shrink back abashed and confounded? To me his arguments seemed so clear, and irrefragable, that I should think I offered an affront to your understandings, if I attempted to give them any additional force. I have yet heard nothing in opposition to them, but what has exposed the authors to ridicule. I will not therefore mis-spend your time in confuting those, who stand self-confuted. What is the result? The judges, being acquitted of the first accusation, and the second depending on the first, the consequence is that they are acquitted of both.

There remains now but the third article of impeachment; and here I believe the learned serjeant will prove as unfortunate as in the preceding. He thinks it highly illegal and unconstitutional to tell the jury that the law infers guilt from the *prima facie* evidence; a maxim, by which the master was in a criminal case punished for the crime of the servant. But is this a fair state of the case? If it were, there would be some room for complaint. But it is not. The direction of the judge was, that the law infers guilt in the master, from the *prima facie* evidence, where there is no evidence offered to prove that the act fixed upon the master by the *prima facie* evidence, was solely the act of the servant. Now, was any such evidence offered in the case to which he alludes? By no means. What follows? The culprit was justly found guilty; and the judge is not in any case blameless, because his conduct was strictly legal. If the law had been in any circumstance violated; if there had been the least flaw in the proceedings, would the learned serjeant have failed to take advantage of the errors, and to move an arrest of judgment? He alledges, indeed, that in none of the trials, affairs were brought to a state susceptible of such a proceeding; that no verdict was ever obtained against any of his clients. What then is become of Almon's trial? Was there no verdict found against him? The learned serjeant's memory must be very treacherous, and seems, if we reason from this instance, to be very unequal to the task of recollecting all the precedents and decisions, which ought to be had in contemplation, if he would form a full and comprehensive idea of the question, that he has undertaken to carry through the House.

But the patriots do not appear to have had it so much for their object to form a right judgment of the question, as to throw odium on the judges. Nor can I see any other end, which they could propose by this enquiry, but the removal of the judges

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by the weight of popular clamour. I cannot suppose them so ignorant of the law, as to imagine, that the sages of Westminster-hall had been treading unconstitutional ground. They must have been sensible, that these venerable personages, were without spot or blemish; but they were willing to embrace the favours of fortune, and to rise to eminence and place on the shoulders of the misled multitude. I know they would be ready enough to occupy these envied stations; and I have no objection to their promotion, on fair and constitutional principles. But let them not be so eager and precipitate as to forget all law, and justice, and decorum. Such indiscretion and violence, will not only ruin their cause, but expose them to ridicule, for want of common understanding. The principal object of their vengeance laughs at their impotent attacks. His conduct has, I must say, been on all occasions, truly noble and magnanimous. When I asked him, whether I should prosecute a virulent libeller, who had in the most outrageous manner traduced his character, he scorned to take an advantage of an enemy, who lay at his mercy, and declared, that the time would soon come, when his conduct would appear fully justified to the public, and silence even the envenomed tongue of slander.

Mr. Serjeant *Glynn* rose to set Mr. Attorney General right, and to inform him that he was mistaken in his assertion about Almon's trial; for that he (Mr. Glynn) had himself moved for a new trial. He took this occasion likewise briefly to answer Mr. Attorney's positions. He said, truth was a highway, should be the king's highway, in which every man has a right to walk without being deemed a trespasser: and this maxim he proved to be the old law of the land. The second point, he said, was that of malice. He said, that not only Mr. Attorney General, but the chief justices Raymond and Mansfield had given the same reason why malice is not material; namely, because the injury to the party is the same; he said, by giving such a reason, they seemed all to have forgot the very first principles and the distinction between a public and private prosecution. He said, that, in order to get rid of truth, they had made a distinction where there was none, or where (if there was any) it was certainly against the doctrines; for that private truths were not so necessary to be known as public truths, and that there were many more plausible reasons to be given why private truths should not be spoken, than those which relate to the public; for what concerns all, all ought to know. But, he said, though they were so ready at distinguishing public from private prosecutions in matters of truth, they were as ready to confound them in matter of malice. He said, they ought to remember that the way of information was a public prosecution, not instituted for reparation to the individual, but the society; that therefore the injury to the party is out of the question. He bid them consider how their reasoning would be admitted in case of homicide, prosecuted either publicly or privately, by indictment, or appeal: the injury to the party is the same, whether the man be killed maliciously or by accident; yet how would that Attorney General be laughed at, who should plead that therefore the malice was out of the question, and ought not to affect the verdict of the jury; and how would the chief justice be abhorred and hooted if he avowed the same doctrine, and if he directed the jury, that the homicide was equally guilty of wilful murder, whether he killed the deceased out of malice or by accident; because the injury suffered by the deceased was the same? He said, that there was another contemptible pretence made by the Chief Justices about the difficulty of proving malice. He said, the difficulty was no greater in the case of libel than in that of murder. The same *malus animus* was with equal ease, and the same manner, discovered in both, and to be discovered too and found by the same persons, the jury. He said, no doubt it was a very old game for wicked persons to throw about arrows and firebrands, and to say, am I not in sport? But such a pretence will never serve the turn, whether they be, really, arrows and firebrands, or, figuratively, libels; whether they destroy the body, or the reputation: and a jury will always be able and ready, in both cases, to discover and find the malice: but if it were, as the Chief Justices say, so difficult to prove the malice; if the thing were really so doubtful as they would represent it, I say, said Mr. Glynn, that is a fresh reason why it should be left to the jury, and not to the King's judges. And I say, that the libeller, no more than the murderer, should be punished, unless the libel, as the murder, be plain enough to be, as sir Philip Yorke said, understood by every honest man as a libel.

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Mr. *Dunning*:

Sir; though fully convinced, both from the station of the persons and the vehemence of the harangues, that obstruct the motion, that no enquiry will be granted, yet I cannot be so far wanting to my duty, nor to my friends, as not to lift up my voice on this occasion. The doctrines which seem likely to be established by this night's debate, are, in my eyes, of too pernicious a tendency to let any friend of the constitution remain silent. Had I not thought that the learned serjeant had fixed himself on constitutional ground so firmly as not to be shaken, I would have taken a more early part in the debate, and delivered my sentiments on a subject, which I have maturely considered. I do not, however, regret my tardiness, because it has given me an opportunity of doing him justice in a point in which his words have been mistaken or misrepresented.

It is alledged by his learned antagonist, on the other side of the House, that he unfairly charged a judge with telling a jury that the law inferred guilt from the *prima facie* evidence, and with thus making the innocent master criminally responsible for the actions of the servant. But here, as I take it, he was misunderstood. The serjeant charged the judge with telling the jury that the law inferred guilt from the *prima facie* evidence, when there was presumptive evidence, though no positive direct testimony to destroy its force. If I am right in this particular, and that I am I have no doubt, the serjeant had just grounds for proposing this point as a subject of enquiry; for it is a very nice and intricate case, and merits a very elaborate discussion. It is too knotty a point to be unravelled in the hurry of business, which distracts a judge on the bench. All the preparation and deliberation, which this House, assisted by the learning and experience of the bar and bench, can employ, will not be too much. The serjeant therefore stands justified for laying it before you as an adequate cause, and a proper object of enquiry.

Indeed, though there were no such solid grounds or particular charges, the murmurs and clamours of the people would, as some gentlemen have very justly observed, be sufficient; because no other feasible plan for quieting them can be contrived or imagined. It is not that the characters of the judges are not traduced by groundless accusations, and scandalous aspersions. These are grievances which every one sees, and every one laments. Judge Smythe, for example, has to my knowledge, been very injuriously treated. His conduct in trying the Scotch serjeant at Guilford, for which he has been so much abused in print, and now arraigned in parliament, was, in my opinion, very fair and honourable. I was consulted in the affair as an advocate; and I must say, that I perfectly coincided with him in my sentiments. Had I been in his place, I must have fallen under the same odium; for my conscience would not have allowed me to use any other language but that of baron Smythe.

While I thus exculpate one judge, let me treat the whole King's-bench with the same candour. I have in the papers seen many, and read some letters, abusing the judges for not setting free the prisoners confined in the King's-bench for debt. Now all these charges are groundless and scandalous; because the judges have no power to release them; and because, if they really had, they would be mad if they would put it in execution.

These circumstances I mention, that you may see I am not disposed, through any pique or any personal enmity, to condemn any doctrines that are not really damnable. My sole motive is the public good. For this reason I must contradict the right hon. gentleman, who affirms the tenets, which he attributes to lord Raymond, and lord Mansfield, to be universally received by dead and living judges, as the established law of the land. That all the living judges do not embrace this opinion, I take to be true, and notoriously true. That all the dead judges did not avow it, I apprehend to be as true, and as notoriously true.

The first of these two propositions needs no proof but an appeal to the knowledge and candour of this assembly, which must be conscious of the truth of the fact. The second may be proved by an induction of particulars, and he that runs may read. The point is easily ascertained by recurring to records and monuments, in which we may see the origin, the progress, and the effects of these doctrines.

The first instance of a judge's instructing the jury that they are only to take cognizance of fact, and not of the intention, occurs in the reign of Elizabeth. John Udall,* a clergyman of the Church of England, but a supposed puritan, was

* See Howell's State Trials, vol. 1, p. 1271.

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accused of felony on a temporary statute of that queen. Being indicted of a libel, he was not allowed to prove the purity of his intention, nor was the jury suffered to prove any thing but the fact of publication, the felony being represented as a matter of law, and competent only to the jurisdiction of the judge. In consequence of this doctrine, which is no sooner explained than exposed, because the law declares that none shall be found guilty of felony, except twelve men find them guilty of a felonious intent, Udall was condemned through the artifice of baron Clarke, the judge.

The conduct of Clarke in this case, though infamous enough, was greatly exceeded in cruelty and brutality by that of lord chief justice Hyde, in the case of Benjamin Keach,* who was accused of having published certain primmers that contained articles contrary to the common prayer. Though the amanuensis has left out the judge's charge to the jury, yet it is pretty apparent, from the rest of his conduct, that he made use of these tenets to induce them to bring the culprit in guilty.

The next case is that of Henry Carr,† tried by lord chief justice Scroggs, for publishing articles of news disagreeable to the court. The judge openly avows these doctrines, and declares it not only his opinion, but that of all the judges, that no news touching the government ought to be printed but by authority.

Jefferies, it is well known, adopted the maxims of his predecessors. There is no occasion, therefore, for stating any case, in which he was concerned. Let us come nearer our own times.

In the case of the King against Owen,‡ the judge allowed the defendant to produce exculpatory evidence to the jury. In order to shew, that he had no malicious or traitorous intention in publishing the libel, with which he was charged, the court permitted him to plead, that during the rebellion, he had printed many papers in defence of the government and Hanoverian succession. If the judge thought that the jury had no right to judge of the intention, why did he allow these steps to be taken? The point is clear. He certainly thought, that the province of the jury was not confined only to the fact, but that it extended also to the intention.

More instances to the same purpose might be given, but this one will be sufficient to shew, that the doctrine of state libels now adopted, was not quite universal among the dead judges. The preceding instances evince its pernicious effects. Since then it appears from this induction of particulars, that the doctrine had its origin in arbitrary times, and under arbitrary judges, that its progress was attended with pernicious effects, that it was never universally received, that the sages of the law differ to this day in their opinion of it, and that the people in general are alarmed at it, I think it is not only expedient, but absolutely necessary, that we should undertake the proposed enquiry, and reconcile law and common sense.

After Mr. Dunning had cited the cases from the State Trials, he proceeded to shew to whom we were obliged for each part of lord Mansfield's doctrine; how much of it was taken from baron Clarke (in Udall's case), who declared that a good subject and an honest man, writing with a good intention, and with a good affection to the prince, ought to die for so doing: how much of it was taken from chief justice Hyde (in Keach's case), who received a verdict from the jury of guilty in part, and sentenced him as if guilty of the whole: how much of it was taken from chief justice Scroggs and Jefferies (in Carr's case), who declared, that it was the opinion of all the judges, "that to print or publish any news books or pamphlets of news whatsoever was illegal; that he would be something more merciful in the punishment of what was inoffensive; and that popular attendance upon public causes that concerned the government, altered the nature of the defendant's cause; that the shouts of the people quite spoiled it; that it always should undo a defendant, and leave no place for mercy, whether it be malicious or not, and though there is nothing reflecting on the government:" how much of it was taken from king James the 2d's Roman Catholic judge, Allybone, (in the case of the Seven Bishops) who declared, "that no private man could take upon him to write concerning the government at all; and that things should not be measured from any truth they have in themselves, but from the aspect they have upon the government:" how much of it was taken from lord chief justice Raymond (in Nutt's case), who declared, "that if a servant carries a libel for his master, he certainly

* See Howell's State Trials, vol. 6, p. 701.
† Ibid. vol. 7, p. 1111.
‡ Ibid. vol. 18, p. 1203.

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is answerable for what he does, though he cannot so much as write or read, because the mischief is equal, though the party's intention do not concur."

After Mr. Dunning had shewn how much of lord Mansfield's doctrine was borrowed, and from whom, he next proceeded to shew how much of it was original. He observed, that under his lordship's auspices, for the first time, the word 'false' had been omitted about seven years ago, in an information for libel; he said, he wondered much that all the other epithets of 'scandalous, seditious,' &c. being like the word false, all mere inference, as it is said, of law; he wondered that all the other epithets were not left out also. He said, he thought he could not with justice deny lord Mansfield the merit of being the first who had in a criminal case made *prima facie* evidence alone conclusive: but, he said, there was something more remarkable and peculiar to his lordship; lord Mansfield was very careful in the case of Almon to conceal that part of his doctrine till the trial was over. When Almon's counsel were going to examine a witness, in order to contradict the *prima facie* evidence, and had declared the purpose for which they called him, and whilst they reasoned amongst themselves aloud, and some of them doubted whether it was incumbent on them to disprove what had not been proved, his lordship told the counsel, "Follow your own opinion in that: if you think it necessary to examine the witnesses, you will proceed; you ought to consider what is best for your client." Hints, and looks, and half words following, persuaded the counsel that they were doing wrong; and though the witness was sworn, they agreed not to examine him, on a supposition that it was not necessary for their client's defence. His lordship immediately proceeded to direct the jury; and told them, that since the defendant had not contradicted, by witness, the *prima facie* evidence, as he ought to have done, that evidence was conclusive. On this very hinge did the verdict turn; and had his lordship through the whole course of the trial but hinted this doctrine, the *prima facie* evidence would have been contradicted, the witness was already sworn for that purpose. This management, Mr. Dunning said, was very much superior to that of the judges he had cited: whatever their doctrines were, they declared them from the beginning and throughout the trial: they did not, by skulking and concealment, filch a conviction from the jury, but committed a bold robbery on justice, looking in the faces of the laws and the defendant.

Mr. *Forrester:*

Sir; I have sat a good many years in parliament, and yet, in the whole course of my attendance in this House, I cannot remember a single example of such extraordinary proceedings as those, which are now the subject of your debate. A vague and undeterminate charge, founded only on hearsay and vulgar report, is brought not only against the chief justice, but against all the judges of England. When, by the candour and frankness of the judges' friends, this charge is fairly avowed and adopted as the known doctrine of the King's-bench, it is clearly demonstrated that the arraigned judges only followed precedent, and the steps of their predecessors, lord Holt, lord Raymond, Dennison, Foster, Yates, and many other judges, equally famed for their knowledge, independence, and constitutional principles, are proved to have fathered these tenets. In short, so many sages of the law, down from the Revolution, for I will go no higher for obvious reasons, have embraced the same opinion, that a learned and eloquent defender of the judges was tempted to call it the universally received opinion of the courts, and the known and established law of the land. The last gentleman who spoke, has endeavoured to prove, rather than proved, that the doctrine is not quite so universally received, as he had given out. Now let us, for the sake of argument, suppose, that it is not quite universal, what will follow? That the judges are blameless, since they have adhered to the law of the land by adhering to the majority of precedents, and have not perjured themselves, by embracing the principles of one or two doubtful cases. One swallow does not make a summer; nor will a strained inference from what was done by one judge in a certain case, make a good precedent, or constitute the law of the land. I apprehend, that when the doctrine was called universal, no more was meant than that it was very general. Nor is it without reason this term was used. That men sink in water, and that the sun always travels round the earth, are justly called universal laws of nature, though the apostle Peter once walked upon the sea, and the sun stood still over the valley of Ajalon.

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When matters are thus circumstanced, where is the justice, or even honesty, of arraigning lord Mansfield, a man, who is not only an ornament to this age and nation, but an honour to human nature? I said as much in a former parliament, and I say it again; for I find no reason to alter my opinion, and I always utter the genuine dictates of my heart. I am an independant man; you know me to be an independant man. I have no connections with any party, nor with any minister. I never received, nor ever shall receive a favour at the hands of a minister. I can therefore, with the better grace, stand up in defence of injured worth and innocence. Let me then boldly declare, that the seats of justice were never better filled than at this hour. Never could they boast more knowledge, never could they boast more integrity. I ask the learned counsellor, who just now quoted so many cases in order to overthrow their opinions, if he ever knew fewer complaints of wrong decisions, if he ever knew fewer appeals to higher tribunals, or fewer reversals? No, never; I have reason to know it. Were they less able, less upright, it would prove very advantageous to me in pecuniary matters; and, had interest much influence on my mind, I would, on this occasion, have turned patriot, and declaimed against them as men utterly unqualified for their functions. Had I the least desire of seeing justice administered by incapable persons, and were I to judge of men's capacity by the specimens given this night, I would exert every nerve and every sinew in order to have the lawyers, who proposed and supported this enquiry, appointed the dispensers and oracles of law. Should they dispense it with the same justice and the same decency, which they have now displayed, I must soon make a fortune, and become a rival of our contractors, nabobs, and prime ministers.

But whence then, you will say, do the murmurs of the people arise, if the conduct of the judges be so upright as you represent it? I hope nobody is so absurd as to imagine, that all the dissatisfaction of the people springs from their jealousy of the judges, were their behaviour as bad as you would persuade us. Could we assign no other cause, yet the spirit of misrepresentation and abuse, which now prevails, would sufficiently account for the phænomenon. Is not baron Smythe's case a pregnant proof of this truth? Who could be more abused, or who was more obnoxious for his conduct at Guildford in the trial of the Scotch serjeant? Yet, who could be more innocent? He now stands without reproach. Is not the gentleman who so fully vindicated him another instance? Did not a notorious libeller persuade the nation for some time, that he was guilty of direct corruption and the meanest villainy? Nay, is not the subject now before us a notorious demonstration of my assertion? Have not the judges, the most venerable men in the nation, been, through the means of libels and lampoons, suspected all over the kingdom of violating the law, and the constitution, when there was not a shadow of a reason for the suspicion? When these things are so, need we be surprised, if the people are jealous of government, which is constantly traduced and vilified with impunity? The wonder would be, if there were no discontents, when the press teems with such legions of abusive productions. I have not, thank God, read a pamphlet these seven years. News-papers, and a very few of these, are the only political compositions of the day that I peruse. Yet I am not so ignorant of what is going forward, as not to know, that not a stage, not a fly, nor a waggon goes down into the country without loads of magazines, pamphlets, and news-papers, and other literary manufactures, full of nothing but misrepresentation and abuse. How then is it possible for the minds of the people not to be poisoned? Many of them take all that they see so impudently asserted in these publications, for gospel. If you ask any of them how he knows such or such a thing to be real fact, he will answer, why I read it in print. For my part, I know nothing that is more wanting in this country than proper restrictions on the liberty of the press. I am now declining into the vale of years, and I must say, that long experience has cooled my fondness for this boasted palladium of the constitution. In my opinion, were we less learned, we should be better men.

Lord *George Sackville*:

Sir; I have the honour of being intimately acquainted with the noble lord, at whom this enquiry is supposed to be aimed, and I must confess, that I have a great value for him, as a gentleman, a scholar, and legislator. Yet, while I thus profess myself his friend, I cannot be persuaded that I ought to show my friendship by putting a negative on this motion,

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because it is the part of a true friend to promote every plan, which wipes off any aspersion, that may have been thrown on the honour or reputation of his connections. And whatever may have been the intention of those who proposed and seconded the question, it clearly appears to me that the result of the enquiry, if it is adopted, will be a complete justification of the defendant. How then can I be but for the motion? Acknowledging myself attached to his interest, I should be suspected of entertaining no very favourable ideas of his cause, if I seemed backward in putting him on his country. But, as I have the highest notions of his capacity and integrity, I am eager to see the qualities of his head and heart undergo the severest scrutiny, that he may confound all the arts of libellers, and shine abroad, and to heaven.

Consider, gentlemen, what will be the consequence of refusing this demand, this debt, which you owe to the anxious expectations of the public. The people, seeing his avowed defenders so loth to bring him forth on the public stage, and to make him plead his cause before their tribunal, will naturally conclude that he could not bear the light, because his deeds were evil; and that, therefore, you judged it advisable to screen him behind the curtain of a majority. At present you say, and I verily believe, that he is innocent. Yet, though his conduct was never questioned in parliament, mark how he is every day, and every hour, pointed out in print and conversation, as a perverter of the law, and an enemy to the constitution. No epithet is too bad for him. Now he is the subtle Scroggs, now the arbitrary Jefferies. All the records of our courts of law, and all the monuments of our lawyers, are ransacked, in order to find sufficiently odious names by which he may be christened. The libellous and virulent spirit of the times, has overleaped all the barriers of law, order, and decorum. The judges are no longer reverenced, and the laws have lost all their salutary terrors. Juries will not condemn petty delinquents, when they suspect grand criminals go unpunished. Hence libels and lampoons, audacious beyond the example of all other times, libels, in comparison of which the North Briton, once deemed the *ne plus ultra* of sedition, is perfect innocence and simplicity. The sacred number 45, formerly the idol of the multitude, is eclipsed by the superior venom of every day's defamation; all its magical and talismanic powers are lost and absorbed in the general deluge of scandal, which pours from the press.

When matters are thus circumstanced, when the judges in general, and lord Mansfield in particular, are thus hung out to public scorn and detestation, now that libellers receive no countenance from men high in power and in the public esteem, what will be the consequence, when it is publicly known, that they have been here arraigned, and that their friends quashed the enquiry, which it was proposed to make into their conduct? The consequence is more easily conceived than expressed. I foresee that the imps of the press, the sons of ink, and the printers' devils, will be all in motion, and they will spare you as little as they will the judges. Like the two thieves in the gospel, both will be strung up and gibbeted, with the law crucified between you, for the entertainment of coffee-house politicians, greasy carmen and porters, and barbers in tippling houses and night-cellars.

I cannot help thinking that it is the wish of lord Mansfield himself to have his conduct examined. Nay, I collect as much from the language of a gentleman who may be supposed to know his sentiments. What foundation then is there for obstructing the enquiry? None at all. It is a pleasure to me to see my noble friend discovering such a symptom of conscious innocence. His ideas perfectly coincide with my own. I would never oppose the minutest scrutiny into my behaviour. However much condemned by the envy or malevolence of enemies, I would at least show that I stood acquitted in my own mind. 'Qui fugit judicium, ipso teste, reus est.'

Mr. *Wedderburn*:

Sir; it is with reluctance I trouble the House at so late an hour of the night. But the importance of the question will plead my excuse. My silence might be branded with the odious imputation of trimming; and I would have it understood, that in grand constitutional points I always take a decided part, and scorn the mean subterfuges of an invidious neutrality.

Sir, it is not that I do not perceive the difficulties with which I am surrounded. I see the narrow path on which I stand, and the rocks and precipices which threaten on either side. I feel my slippery footing,

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and I fully comprehend how hard it will be for a young man to steer between Scylla and Charybdis. If I lean to the enquiry, I shall be termed a child of faction; if I incline to the opposite side, I shall be christened a slave to the court. In this dilemma how shall I act? As every honest man ought. Knowing that something must always be hazarded by public men, I will, regardless of consequences, follow the dictates of conscience; and, if I cannot satisfy others, satisfy at least my own mind.

Sir, the charges against the judges are reducible to two heads: to a false rule of evidence, and a false rule of law. The Attorney General states the former in a manner totally different from that which was adopted by the mover of the question. A learned counsellor insinuates that this state of the case is not grounded on fact. But I dare say, nay, I know, that he is mistaken, and that this was really the direction of the judge to the jury; and I must say, that it is perfectly consonant to law. No man, who knows the principles of law in general, and the principles of the laws of England, in particular, can entertain the least doubt about the matter. The case is clear and indisputable; and the clamour on this head could have its rise originally in nothing but a mistake, or the want of precision in men's ideas.

The second head of complaint, or, the rule of law by which juries are denied the right of enquiring into a libeller's intention, has been so ably handled, that little remains to be said. It has been shown to be conformable to precedents, or to the decisions of a series of the greatest and most upright judges that England ever produced. What is the consequence? The present judges, who only tread in the footsteps of their predecessors, must stand acquitted in the judgment of every unbiassed man. For what, I beseech you, constitutes the common law of England, but a course of precedents? Our unwritten law is nothing else. It is wholly and solely made up of a series of decisions given by grave and reverend men in our courts of justice; and it is for this reason called the wisdom of ages.

However disputable this doctrine may be on the principles of the constitution, it is well known to be an article of faith in Westminster-hall, at least ever since the Revolution. I appeal to every gentleman of the long robe present, whether it is not frequently given as a thesis to the students of law. How, then, can any lawyer pretend ignorance of the reception which a question so much agitated meets with among the judges? Or can any man arraign lord Mansfield, for what passed unnoticed in lords Holt, Raymond, and so many other judges? I protest I am amazed, and cannot guess the reason of such a strange proceeding.

The learned serjeant indeed asserts, that some of these precedents, being recorded only in the State Trials, are not to be trusted, because these volumes are of no authority. But I take the State Trials to be books of good credit. At least men of as great penetration and judgment as any person in this House have viewed them in that light. Not to speak of others, what think you of Rapin, Carte, Robertson, Hume, and Blackstone? They have quoted them as authentic monuments, as proper foundations for the most solid and durable superstructures. Nor have they done so without reason. For the State Trials do not relate things done in a corner. They record transactions that passed on a public theatre, and before the nation at large. Falshood, therefore, in such great and essential points could not creep into them without detection. Hence they may be justly considered as having the sanction of the whole kingdom, and are consequently more to be depended on than the scrawl of an obscure reporter. Not that I would set them up in Westminster-hall as authorities, equal in law to Coke and Littleton: No; I only contend, that in matters of fact no books are more authentic; and it is evident that whether a particular judge delivered a particular opinion, is a mere matter of fact.

Thus, then, it appears that there is a series of precedents, which favour the arraigned doctrines; that these precedents are of good note, and that the contrary precedents, if any, are very doubtful, and founded rather on the torture of words and evidence, than on the clear and explicit declarations of judges. What is the conclusion? The judges are sworn to abide by the law. The law is founded on precedent, or at least explained by it. They have adhered to precedent. They are therefore blameless. I will not say that they are praise-worthy, because there is little praise due to any man for doing his duty in such a plain case. But I must say, that if they had acted otherwise, they would have been not only blameable, but highly criminal. And why? Because they

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would have been guilty of perjury. Believe me, had their conduct been such as the promoters of this motion contend it should have been, they would have been impeachable.

Let us, then, leave the judges out of the question. Let us desist from enquiring into their conduct. They have acted like honest men and true. Their proceedings have been sufficiently scanned; nay, they cannot be better known, nor more minutely discussed. Every thing is now before us. We cannot expect more intelligence or more arguments, should we enquire till doomsday. Yet every rational and unprejudiced man must acquit the judges. Why, then, should we push farther this enquiry? In order to satisfy and quiet the people? That satisfaction and quiet will be as soon produced by this night's debate, as by any future discussion. As we must ourselves be convinced of their integrity, the people will soon be convinced. I hope the present controversy will be truly reported abroad. If it is, I am sure it must open the eyes of the blind. The public will see how much they have been misled in their opinion of the judges, and be enabled to form a just idea of those, by whom they have been abused.

Sir, it is not that I do not think that juries ought to have the cognizance of the intention in cases of libels, even as the law of England now stands. Nor is this a novel opinion with me: I have harboured it for several years. It may be perhaps presumption in me to differ in this point from so many great men, so many oracles of the law; but I must make my own reason my guide. Authority has little weight, when it clashes with reason and argument. Hence, though I protest against enquiring into the conduct of the judges, I am strongly bent on enquiring into the state of the law, that no man nor set of men may hereafter have a pretence for imputing the imperfections of the law to the judges, or for raising against them a groundless outcry among the vulgar.

Sir, while matters continue on their present footing, while judges think the intention as a matter of law cognizable only by them, and juries imagine it competent to their jurisdiction, they will be eternally at variance. A constant struggle for superiority will subsist. Alternate violence and injustice will prevail; and law, being placed in the middle between them, will be mangled and torn in pieces. Acted upon by two forces in opposite directions, it will share the fate of criminals whose limbs are tied to the tails of wild horses. Juries thinking their laws and liberties to be at a stake, and judges imagining their honour and authority as well as the law and the constitution to be concerned, neither will give up the contest, till the land become one scene of anarchy and misrule. Indeed, who does not see that this is already the case? The most audacious libellers cannot be convicted. Secure in the opposition of juries, they laugh at all the terrors of information and attachment. The Attorney General with all his power is despised. Like an old worn-out scarecrow in a field, his head is made a roosting place, or something worse, by these obscene birds. Is it not then time for us to stir in this affair, and to reconcile the practice of the law to the principles of the constitution?

Sir; juries seem to me not only the proper but the sole judges of the intention, of the innocence or malice of a libel; because it is really and essentially a matter of fact and not of law. It will not always, indeed, admit of proof, because it is frequently known only to the libeller. But in many cases it may be determined by the testimony of others; and, when it may, there can be no doubt of its being a matter of fact, and therefore cognizable by the jury. In every possible case circumstances occur, which being established by depositions and affidavits, lead to the knowledge of the intention. Why then, since we know it only from evidence, should not the jury consider it as a part of their province? Because, forsooth, there can be no proof of a malicious intention but the very act of composition or publication. But this is not true. There may be other proofs; and were there none else, yet whether the very libel is innocent or not, is a matter of fact. It depends solely on the opinion which is entertained of the libel by the public. What passed in the Roman senate for polite raillery, would in this House be deemed a gross affront, and be perhaps attended with bloodshed. What Roman virtue called Attic eloquence, modern honour would construe rude Billingsgate. The most famous harangues of Cicero or Demosthenes would with us be termed infamous libels. I say they would have been so termed some time ago. But, to confirm my argument, they would now pass for rational political disquisitions. So changeable is the nature of a libel? so much does it assume the cameleon, and

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suit its colour to the complexion of the times! in short its libellous quality is founded entirely on popular opinion. There is no other standard, by which it can be measured or ascertained. Who, then, so proper as the people to determine the point? They are allowed to be capable of ascertaining the application. But how is this possible, if they do not understand the blanks and innuendoes, and the general meaning and tendency of the piece? If you deny the one, you must deny the other. Then see to what a dilemna you will be reduced. You will be obliged to confine juries to the single fact of publication. Would it not be better to annihilate them entirely, than to leave them only this shadow of power? Believe me, without the power of considering the intention and the blanks and innuendoes, they will become mere blanks and cyphers. What will then become of our envied constitution? This main prop being removed, the whole fabric will tumble to the ground, and crush us under its incumbent weight.

Sir, in all our legal system there is nothing that can boast a preference to the institution of juries. The plan is great, noble and comprehensive, and well worthy of its royal founder. Judges may err; judges may be corrupt. Their minds may be warped by interest, passion, or prejudice. But a jury is not liable to the same inconveniencies. Twelve men of the vicinage, chosen as they are, can have no bias, no motive to show favour or malice to either party. They must judge as the fact strikes them. They must find a verdict agreeable to evidence and conscience. Ask a foreigner what are his ideas of English liberty. He will tell you, with uplifted hands and a look of admiration, that it consists in the right, which every Englishman has, of being tried by his equals. No part of our political system has been a more frequent or a juster subject of panegyric. But where is the propriety of any panegyric, if they only try the most insignificant part of a cause, and leave the rest to the judge, to a man, who is not their equal? This branch of our political institutions I could wish to be immortal, as it deserves. It would therefore give me pleasure to see the line drawn, which should discriminate the provinces of judge and jury. This is the only enquiry, which is worthy of this assembly; because it is the only plan which will silence the present, and prevent future clamours.

Were this scheme adopted, much of the present ferment would immediately subside, and juries would spontaneously give a check to the licentiousness of the press without any new restrictions. Not that I think restrictions in any case necessary. No, I am far from adopting the creed of my honourable friend, or imagining that, if we were less learned, we would be better men. I hold, on the contrary, that the liberty of the press and the diffusion of learning, are absolutely necessary to the support of the constitution. We are already become a luxurious nation, and are every day hastening to a dissolution of manners. The powers of our bodies, if not of our minds, are constantly weakened. Like all the great and powerful nations that ever existed, we are tending towards effeminacy. What then would become of us without the press? Not to speak of the rational and elegant amusements which it affords, we owe to it all the spirit that remains in the nation. Were an *imprimatur* clapped upon it, and a licenser appointed, we should come to the last stage of barbarism. We should be worse than Turks and infidels; the setting of the sun of science being much more gloomy and dismal than its rising. Let us, therefore, guard the liberty of the press as watchfully as the dragon did the Hesperian fruit. Next to the power of this House properly exerted, and to the legal authority of juries, it is the best palladium of the constitution. Nay, without it, I fear the other two would prove very ineffectual. Though it be sometimes attended with inconveniencies, that is no conclusive argument for its abolition. If it were, what would become of the greatest blessings of society? None of them come pure and unmixed. Religion itself is apt to degenerate into enthusiasm or superstition. Must we therefore exterminate Christianity? God forbid! Why, then, be so severe on the liberty of the press? If it poisons the minds of the people, it likewise administers an antidote. The same waggons, the same flys and stages that carry down into the country the lies and abuse of faction, carry down also the lies and abuse of the ministry. If any one is bit by the tarantula of opposition, he is cured by the music of the court.

Mr. Solicitor General *Thurlow:*

Sir; it has been urged, that this charge not being specific, does not amount

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to an arraignment, and therefore ought to be rejected. But, whatever might have been its original complexion, it has now assumed a new form, and bears every stamp and character of a specific charge or arraignment. Not only the crimes, but the criminals, have been specified. The charge has been brought home to individuals, and every culprit is marked out for public obloquy, for the finger of scandal to point at. What more is wanting? Nothing, but that the accusers should pledge themselves, or should at least be bound over, to prove their charge well-grounded. In my opinion no man should be allowed with impunity to make a wanton attack upon such venerable characters as the judges of the land. We award costs and damages to the aggrieved party in the most trifling actions. By what analogy then can we refuse the same justice in the most important cases to the most important personages? If we allow every pitiful patriot thus to insult us with ridiculous accusations, without making him pay forfeit for his temerity, we shall be eternally pestered with the humming and buzzing of these stingless wasps. Though they cannot wound or poison, they will teaze and vex. They will divert our attention from the important affairs of state to their own mean antipathies, and passions, and prejudices. Did they not count upon the spirit of the times, and imagine that the same latitude which is taken by the libellers is here allowable, they would not have dared to offer so gross an outrage. I hope we shall now handle them so roughly as to make this the last of such audacious attempts. They are already ridiculous and contemptible. To crown their disgrace, let us inflict some exemplary punishment. Else none of us is safe. Virtue and honour, you see from this instance, are no safeguard from their attacks.

Sir, it is in vain that the last speaker has endeavoured to give a plausible appearance to the enquiry by placing it on a new footing. However ingeniously imagined or elegantly expressed his propositions might be, the new post is almost as untenable as the old one. For what does it avail to say, that, as long as matters continue in their present situation, there will be an eternal struggle for superiority between the judge and the jury? Matters will not, cannot, long remain in their present situation. They will soon return to their old channel, if we act with firmness, and support the law, and the judges. I say, if we support the law. For, notwithstanding all that has been said to prove the intention a matter of fact and not of law, I do not see that it belongs the less for that reason to the jurisdiction of the judge. The nature, the direct effect, and the remote consequences of a state libel, are so complicated and involved with various considerations of great pith and moment, that few juries can be adequate judges. So many circumstances are at once to be kept in view, so many ponderous interests are to be weighed, so many comparisons to be made, and so many judgments formed, that the mind of an ordinary man is distracted and confounded, and rendered incapable of coming to any regular conclusion. None but a judge, a man that has from his infancy been accustomed to decide intricate cases, is equal to such a difficult task. If we even suppose the jury sufficiently enlightened to unravel those knotty points, yet there remains an insuperable objection. In state libels their passions are frequently so much engaged, that they may be justly considered as parties concerned against the crown. No justice can, therefore, be expected from them in these cases; and it was with reason that lord Hardwicke said they were not to be trusted. I wish this truth may not of late have been too much felt, and given us some room to suspect, that if judges may err, and be corrupted, juries may likewise err and be swayed by their own interest; and that if they do judge as the fact strikes them, it sometimes strikes them wrong.

In order, therefore, to preserve the balance of our constitution, let us leave to the judges, as the most indifferent persons, the right of determining the malice or innocence of the intention. Our forefathers did not yield to us in wisdom, and yet they left this branch of the law as they found it at the Revolution; the time, in which the flame of liberty burnt the strongest and brightest. Let us imitate their prudence; we shall only spoil the constitution by our tampering.

It is not that I think the intention a matter of fact; no, in the sense put upon it by the judges it is a matter of law. What they meant was, that the judgment to be passed upon the intention was a matter of law, and therefore competent only to the jurisdiction of the judge. But whether it is a matter of law or fact is not of any consequence. Methinks I have shown that in either case it ought to be left to the judge.

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Much dust has been raised about civil and criminal actions. But to what purpose? Is not reparation to be made to the public for any injury which it may have sustained, as much as to an individual? Is the welfare of the nation in general of less consequence than that of a single person? Where then is the propriety of making such a bustle about the malice or innocence of the intention? the injury done is the only proper measure of the punishment to be inflicted, as well as of the damage to be assessed. Since you cannot plead the intention as a mitigation in the latter case, neither can you in the former. Hence Holt, Raymond, and their successors, judged not only according to law and precedent, but according to reason and justice.

Colonel *Barré:*

Sir; being no lawyer, I cannot pretend to handle this question so learnedly or scientifically as some gentlemen who have spoke before me. Indeed some may imagine that I am hardly qualified to judge of it, and much less to direct the judgment of others. But it does not appear to me so abstruse or difficult as to be beyond the reach of any man, who has had the benefit of a liberal education. At least I am sure that he who has the gift of utterance, and yet cannot advance something pertinent on this subject, is not a very proper member of this House. Not that I pretend or propose to take the bread out of any lawyer's mouth by attempting to determine the legality or illegality of the arraigned doctrines. No, Sir, I am aware of making any such unconstitutional encroachments, lest they should come in their long gowns, and bands and wigs, and shaven crowns, to teach me how to encamp, to draw up an army, or storm a breach. No such preposterous idea ever entered my head. Far from intending to injure the profession, I mean to do it honour. I mean to persuade the House to pay so much deference to the divided opinions of the long robe, as to make them a foundation for the proposed enquiry.

We have now been nine long hours engaged in the discussion of this question. We have heard many long and elaborate harangues. The most learned, the most diligent, and the most able lawyers have, after much study and preparation, laid before us the result of their enquiries; and yet they have not been able to bring over to their opinion as learned, as diligent, and as able lawyers, who espouse opposite sentiments. What inference ought we to draw from this circumstance? Upon supposition that the disinterestedness of the parties is pretty equally balanced, and that in point of integrity and patriotism the one has no great reason to triumph over the other, we ought to conclude, that the present question is a matter of great intricacy and deep research, and that, in order to come to any just decision, more time an l application is required, than any of us has been yet able to bestow.

Even the judges, who most strongly countenance the present doctrine of state libels, do not seem to have been very consistent in their train of reasoning, or to have adhered to it with much punctuality. Some circumstances of their conduct, indicate that they now and then forgot their refinements, and deviated into the plain road of common sense. When they thought it would answer the purposes of government, whose cause they generally espoused, they allowed exculpatory evidence to be offered to the jury, as an allevation of any criminal intent in the publication; a clear proof that they were more swayed by convenience than by the principles of law in those cases in which they confined the jury only to the publication and application. Had this docrine been the known and established law of the land, the practice would not have been so repugnant to the theory. Particular instances would not have clashed so much with general principles, as to make us suspect that the judges thought the matter depended wholly on their discretion, and that they might or might not leave the intention to the jury.

When matters are thus circumstanced, when the principles and practice of antiquity seem doubtful and uncertain, when living lawyers are disagreed, when the people, as well as we, are divided in our sentiments, shall we not enquire into the cause of these doubts and uncertainties? Shall we not trace out the source of these disagreements and divisions? Surely the quiet and satisfaction of the people must be deemed very light and trivial matters by those, who advise us not to take this step. Nor can they have much reverence for themselves; for no ingenuous mind can be at peace with itself, while a question of such magnitude and importance remains undecided. View, I pray you, the ferment, which has worked up to such a

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height in the nation, and consider what an addition of strength and violence it must receive from such an ungracious and impolitic act, and drop the idea of throwing out the motion. Is not the multitude sufficiently exasperated already against the courts of justice? Is not their jealousy sufficiently roused by considering that they are blest, or rather curst, with a political judge? And ought not you to go hand in hand with them in their suspicions? Our forefathers were alarmed, when they found even members of this House closeted, by our deliverer, by the immortal king William. They could not think their laws and liberties secure. How much ought we more to stand upon our guard, when the Chief Justice of England is closeted? We know that dishonourable offers were made to one judge. How can we be certain that another will not be tried with the same temptation? Once indeed the tempter proved unsuccessful. But will that always be the case? Walpole, who had some knowledge of our courtiers, said, that every man had his price. This I will not vouch as a truth; but one thing I will aver, Every man is not a Yates.

Mr. *Calcraft:*

Sir; I have this night heard many and heavy charges brought against the judges; and whatever the sentiments of other gentlemen may be, it is my firm opinion that they ought to impel us to an enquiry. For what does it signify to have proved that the arraigned doctrines are conformable to precedent, since they have not been proved conformable to the principles of the constitution? Indeed the gentleman who spoke last but one, made an attempt to reconcile them to the general principles of law and jurisprudence. But was he successful? I think every unprejudiced man must answer in the negative. His arguments were too far-fetched, as well as feeble, to produce the intended effect. The fabric raised by the abettors of the motion, is too firm and solid to be blown away by the breath of sophistry. Being founded on a rock it will laugh at all the quirks and quiddities of the long robe. Of this truth I have so strong a conviction on my own mind that I shall not pretend to give it any additional strength. The learned serjeant, and those who followed his steps, have left it in such a state that I should think your time, as well as my own, mis-spent in giving it any more of the hammer and chissel.

My view in rising, is of a different nature. I stand up in order to move you to the enquiry, by recalling to your minds a misdemeanour of the judges, which has escaped your notice during the whole debate. Almon's guilt in publishing Junius's letter was merely nominal. He was in the country when the obnoxious letter came to his shop. He had no previous knowledge of the affair. His servant, without his consent, sold, in the common course of trade, a certain number of them. When he returned to town, he stopped the sale, and complained of the liberty taken with his name on the title page of the pamphlet, and sent back the remaining copies. All these exculpatory circumstances are attested upon oath by himself, by Miller, by his servant, and by several other creditable witnesses. What clearer or stronger proofs of innocence can be desired? I protest myself incapable of conceiving an idea of more convincing evidence.

Yet, notwithstanding all these grounds for lenity and mercy, if not for a total release and acquittal, the devoted bookseller became a sacrifice in the clutches of law. He was fined ten marks, and obliged to find security for his good behaviour during the space of two long years. If by any accident he should take a false step, he forfeits eight hundred pounds; since the half which is to be levied on his two securities, must fall upon him in the end.

Now, what is this, I ask you, but shutting up the man's shop? If he keeps it open, some magazine, containing an obnoxious letter, may, in the course of trade, be taken in by his servant; and he, in consequence of an information lodged, perhaps by the very messenger of the press by whose contrivance the libel entered his house, summoned to appear before the King's-bench to receive sentence of condemnation. What can be more iniquitous? After the rigorous punishment which has been inflicted, the wisest plan that he can adopt is, to renounce business. It is well if he can in two years make eight hundred pounds of clear gain. What then will become of him, if in a year or two, or perhaps in a few months, he should be caught tripping? If we consider the present state of the press, the supposition is far from being improbable. The most cautious and well-meaning man may trespass, since the mere act, and not the intention, is to be the standard of criminality. Shall we

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then let this act of oppression pass without enquiry? Shall we allow the spirit and letter of our laws, which say, that no subject shall be fined to his undoing, to be thus flagrantly violated? If we do, we have forgot the ends of our institution, the redress of wrongs, and the protection of the people.

Mr. *Fitzpatrick:*

Sir; the gentleman who spoke last but one, sensible that the original charges brought against the judges were entirely indefensible, adopted a new plan, and accused one of them of being a politician. But has he proved this charge? Has he given one instance, in which selfish motives swayed the conduct of the arraigned personage? No: he has made no such attempt. Shall we then credit his mere assertion, or rather insinuation? I can hardly imagine that even his overweening conceit will expect such implicit faith from us. He would not reduce us to the humble servility of Aristotle's disciples, who in every dispute, thought every antagonist sufficiently confuted by the cant praise, *autos æpha.*

If, by charging any judge with being a politician, he means, that for reasons of state that judge supports government and the King's ministers, I say, that instead of being culpable, he is laudable. For what, I beseech you, was the design of appointing judges? In order to administer justice, and preserve the law inviolable. But how can this purpose be effected if government be despised and trampled under foot by a licentious rabble? Believe me, the judicial and executive powers, though distinct, must occasionally give mutual assistance, else both will be overturned. Hence, except in extraordinary emergencies, when the constitution is in imminent danger from the violence of the crown, it is the part of the judges to support government. Nay, I have always considered them as a part of government; and I believe every sober man entertains the same opinion. Why then all these aspersions upon the character of a noble lord? Has he in any case violated the law in favour of the crown? The contrary has been demonstrated. Does he enjoy any pensions, any sinecures, any reversions, as premiums for his partiality? Has any of his legal decisions been censured in this House? Not but those of a noble lord, who is the constant theme of patriotic eulogy, have been condemned. This House has resolved, that privilege of parliament does not extend to the crime of writing and publishing libels. But a chief justice held a contrary doctrine. Yet this man has a pension, a sinecure, and a reversion. *Credite posteri!* One would think that it is the spirit of modern patriotism to confound the nature of right and wrong. One judge it prosecutes for having all his life adhered to law and the constitution. Another it loads with riches and honours for having sapped the foundations of morality, and the very bulwark of society.

Ashamed, I suppose, of this and the other strange charges, at which we have all laughed this night, the last speaker has offered a new argument for the enquiry. He tells you, that the King's-bench has absolutely ruined a poor innocent bookseller, by shutting his shop. But how have they ruined him? By imposing a fine of ten marks for republishing an atrocious libel! How cruel! How unmerciful! But so it is; this is the manner in which they have ruined him! Well; but how have they shut his shop? Why, truly, by subjecting him to a penalty, if he sells any more libels during the space of two years! What then! You will say, did he sell nothing but libels, that he and his friends complain thus of his shop's being shut up? Yes, that is the truth of the matter; this innocent man lived, moved, and had his being by the sale of infamous libels, scurrilous pamphlets, and barbarous newspapers, frequently manufactured by his own hands, but oftener patched together by some patriotic plagiary. Precluded for two years from abusing the government, traducing the greatest and best men in the nation, he deems his trade gone; and his friends in this House think it hard to be kept so long from scrambling for the loaves and fishes. 'Hinc illæ lachrymæ!' Who does not pity their distress! I own I am touched with the sad reverse of fortune, which they have experienced; but I am still more affected with the fate of the bookseller. I wish two affidavits had been published with the rest of the trial. We should, I dare say, discover no marks of equivocation. The characters of their authors are a sufficient security against all juggling and prevarication. The one is a Westminster patriot and remonstrant; the other is a devotee and a methodist. I must however confess, that I am staggered by one circumstance. If the culprit was so very innocent, as is pretended, why did not these affidavit-men appear in court to

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be cross-examined and confronted? Remember the fate of the Bostonian affidavits. Nothing could be more strong and explicit. Yet in a court of justice they turned out to be no more authentic, than the testimonies of Horne and his compurgators. What reason have we to put more confidence in a couple of booksellers, who live by vending daily scandal and falshood? A jury is more to be trusted than affidavits. A jury found the culprit guilty. He was therefore justly punished. The judge, if culpable in any shape, is only culpable for showing too much lenity and mercy to a man, who of all these, that have not yet lost their ears in the pillory, deserves the severest chastisements; a man, who being set up by faction, has betrayed that very faction, and proved that he is ready to expose every thing to sale. Thus have I answered, I hope to your satisfaction, every thing like a new argument, that was advanced by the two last speakers. All the other charges were fully confuted by those who went before me, and now there remains not the shadow of an objection against the conduct of the judges; why then should we enquire? Had there been any other grounds of accusation, the patriots would not have failed to take advantage of them. They have throughout this debate shown the will, but not the ability, to injure. And now I think it must be evident to all, that this motion had its origin in low malice and selfish views. However doubtful some of us might have been at the beginning of the night, nothing but invincible obstinacy and inveterate rancour can now prevent every one from putting his negative on the question.

Mr. *George Onslow*:

Sir; I look upon it as a great accession of strength to any man, who brings a charge against another, to be himself free from reproach; and it is with justice Cicero says, that none can be an orator but a man of probity; a virtuous life being often more persuasive than an eloquent tongue. What then shall we say to the learned serjeant, who introduced this motion? Tried by this rule, he will not, I fear, stand the test. The course of this debate must have convinced the greatest prejudice and obstinacy, that he was either ignorant of the state of the law in cases of libels, or that he acted maliciously in arraigning the judges. For it has now been demonstrated as far as a thing of such a nature admits of demonstration, that the objects of his envy have adhered to law and precedent. But it is not in this point alone that he is vulnerable. I have now in my hand a paper, which proves him a much greater criminal than any of the judges, even if his allegations were as true as they are false. He and his friends have quoted many cases of libels. It is now my turn to quote; and I will quote a case, which he will, I dare say, allow to be the case in point. It is the case of serjeant Glynn. Here is a letter, which I am told was penned by him. If it is not, the publisher has done him injustice; for he has had the impudence to set his name to it at full length. But I believe that the learned serjeant has sustained no injury, and that it is a real copy of a paper signed by the patriot. Nor do I think it would be impossible to trace it up from the printer's devil to the printer, from the printer to the publisher, and from the publisher to the learned serjeant Glynn. Nay, I can prove—No, let me hold,—I believe it may be proved that he is the author. If he is, I must say that he is highly criminal; for the letter is a false, scandalous, and treasonable libel. Who says No, no? I say, Yes, yes: and I have been told so by as able a lawyer as any man in this House. Nor is my opinion to be altered by winks, nods, and groans. I hope the learned serjeant will find it consistent with his honour and veracity, to disavow this paper. If he does not, I will conclude, that instead of arraigning others, he ought to come as a culprit before this House.

Serjeant *Glynn*:

Sir; as the hon. gentleman, who spoke last, has complimented me with the title of the learned serjeant, I hope he will allow me to return the favour by calling him my learned friend; as he has been so very forward in distinguishing me with marks of his friendship. The manner in which he has now acquitted himself, convinces me, that common report has done no injury to his character. His tenderness upon me shows, that fame is not always a liar, but that she sometimes gives us as amiable a picture of men as they deserve. He asks me whether I did or did not write the letter, which he condemns? But I will answer no questions. For why should I? He says that he can prove me to be the author. Let him perform his promise, let that previous act take place, and then we shall see what apology or ju-

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tification I will produce. Till this is done matters must remain on their present footing, and I must, according to the laws of England, be deemed innocent, till I am proved guilty.

Mr. *George Onslow:*

Sir; I must observe to the learned serjeant, that common report among the Bill-of-Rights-men is one thing, and common report among the rest of the nation is another. That wretched junto, with their miserable faction, call their own scandal and defamation the voice of the people: but I dare say this night will convince them of their error. The public will pay as little attention to the aspersions, which they cast on my character, as they will to the charges, which they bring against the judges. I think it an honour to be involved in the same fate with such illustrious personages. Had I escaped their notice, I should have suspected that I was really as worthless a person as they represent me, and that I ought to be a member of the society at the London-tavern. The learned serjeant says, that I offered to prove him the author of this treasonable libel. But I did not. I checked my tongue, when it was going to utter that proposition; because I know that legal evidence cannot always be given for the most certain truths. Of this nature I take this libel to be. I believe no man in this House doubts that it is the work of the serjeant, yet few of us can give a satisfactory proof of it in a court of justice. I thought that the serjeant being a patriot, would have the honour and integrity to acknowledge or disclaim it. But I find myself mistaken, I counted without my host. The serjeant is not even so honest as I supposed—[Here he was interrupted.]

Mr. *Hotham:*

Sir; I beg that if the hon. gentleman has any thing to propose to the House, on this subject, he will chuse some other time for its discussion. As it is now so late, it is enough if we bring the present question to a conclusion.

The House then divided. The Yeas went forth.

Tellers.

Yeas	Captain Phipps Mr. Alderman Townsend	76
Noes	Mr. Onslow Mr. Cooper	184

So it passed in the negative.

*Debate in the Lords on the Earl of Chatham's Motion declaring the Capacity to be chosen a Member of Parliament an inherent Right of the Subject.**] December 5. The Earl of *Chatham* moved "That the Capacity to be chosen a Representative of the Commons in Parliament, being under known restrictions and limitations of law, an original inherent Right of the Subject, may be cognizable in a court of law, and is a matter wherein the jurisdiction of the House of Commons (though unappealable as to the seat of their member) is not final or conclusive." His lordship's first speech, which lasted two hours, was extremely dispassionate, sensible, and much to the point in question. He enlarged greatly upon the Middlesex election, and urged the necessity of dissolving the parliament, which he declared, by seating colonel Luttrell and rendering Mr. Wilkes incapable of being elected, had infringed the rights of the electors, and that an action in a court of law would certainly lie against the House. After displaying great eloquence, with the most admirable candour and gentleness, he made a digression upon the modern manner of directing a jury from the bench, and giving judgment upon prosecutions for libels.

Lord *Mansfield:*

My lords; the opinion of this House has been so repeatedly and so fully taken on the business of the Middlesex election, that it is utterly needless for me to make any answer to what the noble lord has now been pleased to urge upon the subject; I therefore rise only to correct the mistakes with respect to his charges against me in a judicial character—charges quite remote from the purport of his motion, and introduced merely as a fresh tub to amuse the wretched whale of popularity.

It is extremely painful, my lords, where a man is publicly attacked, not only to have prejudice to contend with, but ignorance; I say ignorance, because highly as I respect the abilities of my accuser in other matters, this is a point upon which he is entirely destitute of information—indeed so destitute, that were I not apprehensive my silence might be liable to misconstruction, I should not have distinguished him with the attention of a reply. The noble lord is pleased to say, that the constitution of this country has not only been wounded in the House of Commons in the

* From the London Magazine.

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material right of election, but in the court of King's-bench by the immediate dispensers of the law. His lordship tells the House, that doctrines no less new, than dangerous in their nature, have been inculcated in this court, and that particularly in a charge which I delivered to the jury on Mr. Woodfall's trial, my directions were contrary to law, repugnant to practice, and injurious to the dearest liberties of the people. This is an alarming picture, my lords, it is drawn with great parade, and coloured to affect the passions amazingly. Unhappily, however, for the painter, it wants the essential circumstance of truth in the design, and must like many other political pictures be thrown, notwithstanding the reputation of the artist, among the miserable daubings of faction.

So far in fact, my lords, is the charge without foundation, that the directions now given to juries are the same that they ever have been. There is no novelty introduced; no chicanery attempted; nor has there, till, to serve some interested purposes of late, been any outcry raised against the integrity of the King's-bench. When, indeed, the abettors of sedition found, that the judges were neither to be flattered from their duty by fulsome adulation, nor intimidated by the daring voice of licentiousness; when they found that justice was not afraid of drawing her sword against the greatest favourite of an inconsiderate multitude, they had no resource but to impeach the probity of her ministers; to acknowledge the equity of any sentence against themselves would be to give up their pretensions to patriotism; and to acknowledge their disregard of those laws upon an attachment to which, they founded all their reputation with the people. What, therefore, was to be done? To traduce the judges; to represent them as the servile tools of every arbitrary minister; to represent every criminal of a popular nature, a martyr to the public good, and to excite a general abhorrence of all legal subordination.

The noble lord will probably observe, that apt as the populace are to imbibe injurious opinions with respect to men in office, there must nevertheless be some foundation for these opinions before they can be universally believed. This, however, manifestly contradicts his own declaration upon a very recent occasion; where speaking of the late lord Anson, he said, that to the wisdom, experience and care of that nobleman the nation was indebted for all the naval glories of the last war. Yet, lord Anson, according to his account, was so obnoxious to the million, that my accuser thanks God he had fortitude enough to place him at the head of the Admiralty, in spite of all the popular clamours raised against him; in direct opposition to the clamours of the merchants, and contrary to the opinion of the whole city of London.

My lords, if this is not sufficient to serve the noble lord, what shall we say of sir Robert Walpole's administration, which he himself opposed, though he now favours us with so many compliments on the wisdom, on the rectitude of that celebrated statesman? Or what will he say to the late lord Granville's continued want of popularity, to whose abilities, to whose patronage he confessed himself indebted for every thing he is in politics? Here are proofs of his own producing in favour of unpopular characters; and I do not despair on future occasions to hear a multiplication of the instances.

In the law particularly, my lords, it is well worth observing that some of the names most esteemed by the accusers of the present judges, have been eminent for maintaining the very doctrines, which now expose the King's-bench to a torrent of unremitting obloquy. I could quote numerous authorities, equally just and respectable, of this opinion, but I will only mention three: Mr. Justice Dennison, Mr. Justice Forster, and Mr. Justice Yates, all independent men: the noble lord has misconceived the matter, by implicitly believing, as many others do, what has appeared in print respecting the nature of libels, and directions to juries, whereas much is often printed totally false and groundless; if I properly understood the noble lord, he meant to say, that the jury were told they were only judges of the fact and not of the law, but his lordship was mistaken; I have always, in one uniform manner, told a jury, that they were to judge of what appeared by the evidence in court, both respecting the publication and respecting the justification of any libel; where no justification of the matter in the information was entered into, they were to find according to their judgment, whether the innuendos, and the criminal inference in the information were such as the paper deserved. I shall at all times be proud of changing my opinion, when it appears that my judgment is improper; many precedents of the ablest lawyers doing so,

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might be recollected; and upon all trials where I have presided, I have said, that if I was wrong in my direction, I would most willingly be set right in an arrest of judgment; for if a direction to a jury is improper, the whole verdict is null and void, and a new trial must be granted. It may probably surprise the House, that no objection has, in fourteen years, been ever made to my conduct in this particular, though I have so repeatedly desired it whenever I was thought wrong.

Judges, my lords, cannot go astray from the express and known law of the land; they are bound by oath punctually to follow the laws. I have ever made it the rule of my conduct, to do what was just, and conscious of my own integrity, am able to look with contempt upon libels and libellers. Before the noble lord, therefore, arraigns my judicial character, he should make himself acquainted with facts; the scurrility of a newspaper may be good information for a coffee-house politician, but a peer of parliament should always speak from higher authority: though if my noble accuser is no more acquainted with the principles of law in the present point, than in what is advanced to support the motion, where he told us an action would lie against the House of Commons for expelling Mr. Wilkes, I am fearful the highest authorities will not extend his ideas of jurisprudence, nor entitle him to a patient hearing upon a legal question in this assembly.

The Earl of *Chatham:*

My lords; if I conceive the noble lord on the woolsack right, or have been rightly informed by the public prints, from which, I candidly confess, I originally derived my information on this subject, the doctrine of the King's-bench is, that a libel or not a libel is a question of law to be decided only by the court, and the sole power of the jury is to determine upon the fact of printing and publishing. This, my lords, I understand to be the noble lord's opinion, but this I never understood to be the law of England, on the contrary I always understood that the jury were competent judges of the law, as well as of the fact, and indeed if they are not, I can see no essential benefit arising from their institution to the community.

I am therefore desirous, my lords, I am earnestly desirous, that a day may be appointed for examining into the conduct of such judges as dare to establish this anti-constitutional practice in our courts. I am well assured from the most respectable authority that the practice is immediately subversive of our dearest rights, our most invaluable liberties; and profligate as the times may be, these are objects that interest should lead us to defend, even if we are wholly unactuated by principle. In a late trial of an imputed libel, my lords, it was declared from the bench, that if the jury instead of adding the word 'only' to their verdict, had found the defendant generally guilty of printing and publishing, they would have found him guilty of the libel, even though the paper might be perfectly innocent. But where is the wonder that our laws should be perverted, when the constitution upon which these laws are built has been so infamously wounded? The superstructure may well give way, when the foundation is so notoriously destroyed. Excuse me, my lords, for introducing the Middlesex election so frequently. I cannot but introduce it on every occasion. The right of election is the vital circulation in the body politic. Stop it, and we are politically destroyed. What signifies talking about our laws, if the right of making these laws is violently torn from us? We cannot, therefore, enter upon any debate in which the Middlesex business will not be proper, in which it will not be absolutely necessary. I shall for my part consider it as the alarm bell to liberty; I shall ring it incessantly in the ears of the whole kingdom, till I rouse the people to a proper sense of their injuries, and convince our ministers, intrenched as they are in their venal majorities, that the privileges of Englishmen are never to be infringed with impunity.

Lord *Camden:*

My lords; as this debate seems to turn upon a point of law, and, from a motion for restraining the despotism of the lower House in matters of election, has been changed into a stricture upon the conduct of the noble judge on the woolsack, it would be highly necessary to have the direction to the jury before us, which my illustrious friend, who spoke last, has alluded to; if we can obtain this direction, and obtain it fully stated, I shall very readily deliver my opinion upon the doctrines it inculcates, and if they appear to me contrary to the known, and the established principles of the constitution, I shall not scruple to tell the author of his mistake in the open face of this assembly. This I shall

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think peculiarly my duty, as it may be supposed that a man, who has passed through the highest departments of the law, has made the study of the constitution a more immediate object of his attention, than those noble lords who have not professionally taken it up.

I am but too sensible, my lords, of the disreputable state of our law courts at present, and I heartily wish that some effectual method may be taken to recover their former credit, their former dignity. The best method of doing this, in my opinion, is to ascertain the truth or the falsehood, of the popular reports, so boldly, so generally propagated against their mode of administering justice. Let us try, my lords, whether they are venal, or whether they are otherwise. As a lawyer, I am a friend to the courts, and should be sincerely concerned, if the spirit of the times has fastened any unmerited stigma on their characters. If they are, as they ought to be, immaculate, we cannot do them a more essential service, than to fix a day for enquiring into their conduct—we shall then be able to certify in their favour—we shall then give their probity the sanction of our evidence, and restore them to the esteem, to the confidence of their country. On the other hand, should the popular rumours have unhappily any foundation in fact, we owe it to ourselves, and to posterity, to drive them indignantly from the seats which they dishonour, and to punish them in an exemplary manner for their malversation.

The noble lord upon the woolsack has been pleased to sneer at my illustrious friend, on account of his unacquaintance with law, and saying, that an action for damages lies against the House of Commons, in consequence of the Middlesex election. The noble lord however triumphs without a victory; if he supposes the laws of this country founded upon justice, he must acknowledge the propriety of the very observation which excites his ridicule. Will he venture to say, that in the Middlesex business, the freeholders have not been grossly, dangerously injured? Will he venture to say, that being injured they have not a legal claim to redress?—a legal title to compensation for the damage they have sustained? He knows they have—he cannot deny their claim, unless he places the simple resolution of the other House, entirely above the established law of the land, and tells us, that the lowest estate of parliament is constitutionally warranted to annihilate the constitution.

I am not, my lords, declaiming on this occasion, as the member of a party, as a courtier out of place, or as a man whom private pique, or public disappointment, has rendered at all events determined to oppose the operations of government—No, my lords—I have no attachment to Mr. Wilkes, as Mr. Wilkes; no resentment to colonel Luttrel, as colonel Luttrel; the person expelled, and the person seated by the Commons, is alike indifferent to me. I only feel for the liberties of the people; I only speak as the precedent appears dangerous to the pillars of freedom, and likely to weaken the constitution over the heads of posterity. On these principles I shall ever follow the lead of my illustrious friend, and transmit my name unsullied to the annals of my country.

The Duke of *Grafton:*

My lords; the subject of the original motion upon the table, having been repeatedly discussed in this House, and a new argument, relative to the conduct of our law courts, having arisen from it, that seems very necessary to be considered, I shall take the liberty of making a few remarks on what the noble lord, who spoke last, has been pleased to advance, and then move your lordships to adjourn, as there appears no great likelihood of doing any other business.

The noble lord on the woolsack has accounted, in the most satisfactory manner, for the scandalous reports which are propagated against the integrity of our judges, and I believe there is not an individual in this assembly, contrary a language as some may use, who is not convinced, that these reports spring more from the very rectitude of courts, than from any real suspicion of their venality. The great crime of the sages in Westminster-hall, my lords, is, their not having prostituted the public ordinances of the kingdom to the purposes of sedition. Had the judges pronounced defamation legal—had they given a sanction to outrage—had they declared the subversion of all government was right—and held it loyalty to make a noon-day attack upon the palace of the sovereign—had they, my lords, supported licentiousness, by concessions of this abject nature, then instead of libels on their dishonesty, we should only hear Io Pæans to their praise: popularity would pour forth all its doggrel

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to celebrate their unexampled virtue; Grub-street would ring with miserable ditties to their honour, and we should find them incessantly extolled by the deluded multitude for those actions, which would lead the mind of intelligence to doom them to the axe.

The noble lord, who spoke last, professes himself a friend to the law courts, and indeed with good reason, as he owes every consequence he possesses to those courts. He tells us, my lords, that we cannot possibly confer a greater favour on the judges, than to scrutinize their conduct, than to join with the roar of the rabble, and give a foundation for clamour, by giving it the consequence of an enquiry.

I differ entirely in opinion from the noble lord; I do not think the measure he proposes either honourable to the sages of the law, or just with regard to ourselves. Honourable to the judges it cannot possibly be, for it is trying them upon anonymous accusation; just to ourselves it cannot possibly be, because we are here assembled not to debate upon rumours, but to determine upon facts; if every idle, if every impudent report, which may be circulated through the channel of our newspapers, is to be made a matter of debate in this House, we shall have but little time to enter upon the real business of the nation; the present, my lords, is a very alarming crisis, and we should rather endeavour to prepare ourselves against a foreign enemy, than study to foment our domestic animosities. But the views of sedition are too plain, too palpable; pretended patriotism is a weed which never grows in a serene sky; it thrives only under the howlings of national disunion; and our political reformers discover errors in the state, merely through a hope of being entrusted with the reformation.

My lords, the more we consider the nature of the proposed enquiry into the conduct of the judges, the more your lordships must see the fallacy of that argument, which talks of it as necessary, nay as reputable for the character of the venerable sages; if their characters are to be rendered immaculate by a parliamentary vote in their favour, will they not be made equally spotless, when parliament declares that the charges against them, are so evidently malicious, so scandalously groundless, that they do not merit the minutest examination? Is it not more honourable for the courts of law to treat their accusers with contempt, than to give a serious ear to the accusation? Undoubtedly, my lords; and give me leave besides to ask, whose doubts of the judges integrity we are to remove? The doubts of the people only who are interested in aspersing them; the doubts of the people who have already pronounced both Houses of Parliament corrupt; and who declare, that all our proceedings are determined by a venal majority. Will men of this stamp, my lords, pay any regard to our testimony in favour of the judges, even if we go into the enquiry proposed? By no means: we shall be branded with the grossest epithets ourselves, unless we decide agreeably to the prejudices of popularity; they will call us the abettors of guilt, for voting in conformity to the dictates of our conscience; and the judges, so far from receiving any benefit by the severest scrutiny into their conduct, will only experience an additional share of reproach. Seeing therefore in the first instance, that no positive charge is brought against any one of the judges, and in the next, that the proposed enquiry cannot be productive of any good consequences, I flatter myself your lordships will not misemploy your own time, nor insult the purity of our courts, by deeming the partial voice of faction, a sufficient ground for impeaching their integrity. I therefore move that you do adjourn.

Lord *Shelburne* informed the House how discontented the minds of the people without doors were; that it was highly necessary at this time, so near the commencement of a war, something should be done to appease them, that they might the more firmly and willingly unite to assist government; that, if the House of Commons could make rules of their own, they were above the laws, which was more than could be said of either House, or of the King. By the power by which the House incapacitated Mr. Wilkes, they might the next day, without any reason assigned, render him again capable of being elected; that, as to changing the mode of making this motion, it having been heretofore studiously avoided and quashed by the ministry, it was therefore necessarily obliged to be made in a new way.

Lord *Denbigh* declared the present parliament a good parliament; that it had passed two most excellent acts, which would ever confer the highest honour on them, particularly that of not screening

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their servants from prosecutions for debt, under the paltry plea of privilege; that they had, in the affairs now alluded to, acted extremely right; he avowed their having a full and legal power to expel a member convicted of criminalities; they were very just, he observed, in declaring that such a man was not a fit person to sit among them. He quoted a similar case in their own House concerning the earl of Macclesfield, and observed, that his own opinion that lenient measures were always wrong, was, in the present case, experimentally proved. Had the House of Commons committed the sheriffs for making the return of an incapable person, they would have acted properly; their ill-timed candour was now called fear; he was therefore for vigorous measures; he nevertheless approved greatly of the vote of the House, and he doubted not but future historians would sing their praise: in the House of Commons there were many respectable persons, and many rich citizens, notwithstanding the monied men had, in this House, been lately called "muck-worms." [Here his lordship was interrupted by the earl of Chatham, who declared, "That if he alluded to any word or expression he might have dropped in the House last week, he meant by muck-worms the stock-jobbers, and not the monied men in the city." Lord Denbigh grew warm upon the interruption, and complained of it as disorderly, observing, that he did not, nor would he, say who he alluded to. The duke of Grafton also declared the calling lord Denbigh to order was unfair: lord Chatham said, that as an old friend he only meant to set lord Denbigh right: after a little time lord Denbigh went on, and when he had said all he meant to advance, his lordship seconded the motion for adjournment.]

The Earl of *Chatham* then desired to read an amendment of his motion, which he did: as soon as he had done so, lord Weymouth rose and said, that after a motion to adjourn, according to the rules and orders of that House, the amendment could not be agitated; but the question for the adjournment should be immediately put.

The Duke of *Richmond* said, that he thought when a question of such consequence as the motion made this day was, the House should not be so particularly nice as to their orders; it was needless to adjourn merely to stop a motion that would probably be made the next day they met: his grace observed, that the speakers on the other side, whenever this affair was brought before the House, endeavoured to put it off by adjourning; that it had never been fairly or fully gone into; and that in the interval, which the Spanish ambassador chose now to give us, it was the most proper time to take the affair in hand, and convince the people, who thought themselves greatly aggrieved, that they were not deserted by every branch of the legislature; his grace observed, that the House of Commons had no legal power to incapacitate any man; that the only instance of any thing like it in their own House produced this day was that of the earl of Macclesfield, who actually was not expelled; this, he observed, was the strangest method of quoting cases in point that ever he knew. His grace, throughout his speech, was extremely powerful in his arguments, which were very weighty and striking, though delivered with the most unaffected coolness and candour.

When he had finished, the House called for the question to adjourn, which being put, they divided; 52 for the adjournment, 20 against it.

*Debate in the Lords on the Conduct of the Court of King's-Bench in matters of Libel.**] December 10. A warm debate having happened in the House of Commons upon a motion made by Mr. Serjeant Glynn, for an enquiry into the Administration of Criminal Justice, on the 6th of December, lord Mansfield the day following, desired the House of Lords might be summoned on this day, he having something to communicate to their lordships. The House was accordingly summoned, and great were the expectations of every body. Nothing less than the proposed enquiry, which the ministry had, so unfriendly to his lordship, stifled in the House of Commons, was now conceived to be the object of his lordship's wishes, in the House of Lords. On the contrary, when Monday came, and the supreme court of judicature of this country was big, and filled with great expectation—what did he do? He informed their lordships that he had left a Paper with the Clerk of the House: that the paper contained the Judgment of the Court of King's-bench, in the case of the King against Woodfall; and that their

* From the London Museum.

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lordships might read it, and take copies of it, if they pleased.*

The Earl of *Chatham* observed, that the verdict of the jury in that case was 'guilty of printing and publishing only;' (that if the newspapers told him true, for he had only newspaper information of that transaction) two motions had been made in the court upon the verdict; one was a motion in arrest of judgment by the defendant's counsel, grounded upon the ambiguity of

* The following is a Copy of Lord Mansfield's Paper left with the Clerk of the House of Lords:

Copy of the unanimous Opinion of the Court of King's Bench, in the Case of the King against Woodfall, delivered and read by the Lord Chief Justice on the 20th of November 1770.

This comes before the Court upon two rules. The first obtained by the defendant to stay and entering up judgment on the verdict given in this cause. The second obtained by the Attorney General, that the verdict may be entered according to the legal import of the finding of the jury. The last rule must, for the nature of it, be first discussed, because the ground of argument upon the other cannot be settled till this is disposed of. Upon this rule it is necessary to report the trial.

This prosecution is an information against the defendant, for printing and publishing a libel in the Public Advertiser, signed Junius. The tenor of which is set out with proper averments as to the meaning of the libel, the subject matter, and the persons concerning which and of whom it speaks, with inuendoes filling up all the blanks and the usual epithets.

In support of the prosecution, they proved by Nathaniel Crowder, that he bought the paper produced, and twelve more, from Coldfield, the defendant's publisher, in the defendant's publishing-room, the corner of Ivy-lane. That he goes often there, has occasionally seen the printing-room, and has had papers in the printing-room. They read the paper produced, and the tenor agreed with the information.

George Harris, register of pamphlets and newspapers, proved, that the defendant himself and servants paid the money for advertisements in the Public Advertiser; that defendant had paid himself, and all the payments were on his account. That defendant has made the usual affidavit, and has been allowed the stamp-duty for such papers as were unsold. That the duties on advertisements in the paper now in question, were paid by defendant's servants, and the receipt given on defendant's account.

William Lee, clerk to sir John Fielding, proved, that he often carried advertisements for the Public Advertiser, the corner of Ivy-lane. That he generally paid ready money; that he had seen money paid to the defendant for advertisements, and he had a receipt from the defendant signed by him the 29th of November, 32*l.* for printing advertisements in the Public Advertiser. On the part of the defendant they called no witnesses. His counsel objected to some of the inuendoes, but they principally applied to the jury to acquit the defendant, from the paper being innocent, or not liable to the epithets given in by the information; or that the defendant's intent in publishing did not deserve the epithets in the information.

There was no doubt but that the evidence, if credited, amounted to proof of printing and publishing by the defendant. There may be cases where the fact proved as a publication, may be justified or excused, as lawful or innocent; for no fact which is not criminal, in case the paper be a libel, can amount to a publication, of which the defendant ought to be found guilty. But no question of that kind arose in this cause. Therefore I directed the jury to consider whether all the inuendoes, and all the applications to matter and persons, made by the information, were, in their judgment, the true meaning of the paper. If they thought otherwise, they should acquit the defendant; but if they agreed with the information, and believed the evidence as to the publication, they should find him guilty. If the jury were obliged to find whether the paper was a libel, or whether it was a libel to such a degree as to deserve the epithets given it by the information, or to require proofs of the express intent of the defendant in printing and publishing, and of its being malicious to such a degree as to deserve the epithets given by the information—then this direction was wrong.

In support of it, I told them, as I have from indispensible duty been obliged to tell every jury, upon every trial of this kind, to the following effect: that whether the paper (meaning as alleged by the information) was in law a libel, was a question of law upon the face of the record: for after conviction, a defendant may move in arrest of judgment, if the paper is not a libel. That all the epithets in the information were formal inferences of law from the printing and publishing. That no proof of express malice was ever required, and is in most cases impossible to be given. That the verdict finds only what the law infers from fact: therefore, after conviction, a defendant may, by affidavits, lessen the degree of his guilt. That where an act in itself indifferent, if done with a particular intent, becomes criminal, there the intent must be proved and found: but where the act is in itself unlawful, as in this case, the proof of justification, or excuse, lies on the defendant; and, in failure thereof, the law implies a criminal intent.

The jury stayed out a great while, many hours; at last they came to my house; (the objection of its being out of the county being cured by consent.) In answer to the usual

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the verdict. At the same time a motion was made by the counsel for the crown, for a rule upon the defendant to shew cause why the verdict should not be entered up according to the legal import of the words. On both motions, a rule to shew cause was granted, and soon after the matter was argued before the Court of King's-bench. The noble judge, when he delivered the opinion of the Court upon the verdict, went regularly through the whole of the proceedings at Nisi Prius, as well the evidence that had been given, as his own charge to the jury. This proceeding would have been very proper, had a motion been made of either side for a new trial, because either a verdict given contrary to evidence, or an improper charge by the judge at Nisi Prius, is held to be a sufficient ground for granting a new trial;

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question put by the officer, the foreman gave their verdict in these words: "Guilty of printing and publishing only." Nothing more passed.

The officer has entered up the verdict literally, without so much as adding the usual words of reference to connect the verdict with the matter to which it is related.

Upon this, the two rules I have stated were moved for.

Upon that obtained by the Attorney-General, the affidavit of a juror was offered by the counsel for the defendant. But we are all of opinion that it cannot be received. Where there is a doubt upon the judge's report, as to what passed at the time of bringing in the verdict, there the affidavits of jurors, or by-standers, may be received upon a motion for a new trial, or to rectify a mistake in the minutes. But the affidavit of a juror never can be read as to what he then thought or intended.

This motion consists of two parts; first, to fill up the formal words of reference; second, to omit the word 'only.' We are of opinion, that the first is a technical omission of the clerk, and ought to be set right. As to the second, that the word 'only' must stand in the verdict.

There is no ground (from any thing which passed) to explain the sense of the jury, so as that the officer ought to have entered a general verdict. No argument can be urged for omitting the word 'only,' which does not prove that it can have no effect, though inserted; and therefore it is a question of law upon the face of the verdict. The defendant's motion must be considered upon the ground of the word 'only' standing; was it omitted, there could be no doubt. Guilty of printing and publishing, where there is no other charge, is guilty: for nothing more is to be found by the jury.

In the case of the King against Williams, the jury found the defendant guilty of printing and publishing the North Briton, No. 45; the clerk entered it up guilty, and no objection ever was made. Where there are more charges than one, guilty of some only, is an acquittal as to the rest. But in this information there is no charge except for printing and publishing. Clearly there can be no judgment of acquittal; because the fact found by the jury is the very crime they were to try. The only question is, Whether, by any possibility, the word 'only' can have a meaning which would affect or contradict the verdict.

That the law, as to the subject matter of the verdict, is as I have stated, has been so often unanimously agreed by the whole Court, upon every report I have made of a trial for a libel, that it would be improper to make it a question now in this place. Among those who have concurred, the bar will recollect the dead, and the living not now here. And we all again declare our opinion, that the direction is right, and according to law. This direction, though often given (with an express request from me, that if there was the least doubt, they would move the Court) has never been complained of in court; and yet, if it was wrong, a new trial would be of course. It is now complained on. Taking then the law to be according to this direction, the question is, whether any meaning can be put upon the word 'only,' as it stands upon the record, which will affect or contradict the verdict. If they meant to say that they did not find it a libel, or did not find the epithets, or did not find any express malicious intent, it would not affect the verdict; because none of these things were to be proved or found either way. If, by 'only,' they meant to say that they did not find the meaning put upon the paper by the information, they should have acquitted him. If they had expressed this to be their meaning, the verdict would have been inconsistent and repugnant; for they ought not to find the defendant guilty, unless they find the meaning put upon the paper in the information; and judgment of acquittal ought to have been entered up. If they had expressed their meaning in any of the other ways, the verdict would not have been affected, and judgment ought to be entered upon it. It is impossible to say with certainty what the jury really did mean; probably they had different meanings. If they could possibly mean that which is expressed would acquit the defendant, he ought not to be concluded by this verdict. Is it possible some of them might mean, not to find the whole sense and explanation put upon the paper by the innuendoes in the information. If a doubt arises from an ambiguous and unusual word in the verdict, the Court ought to lean in favour of a Venire de Novo.

We are under the less difficulty, because, in favour of a defendant, though the verdict be full, the Court may grant a new trial. And we are all of opinion, upon the whole of the case, there should be a new trial.

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but when a motion is made in arrest of judgment, or for establishing the verdict, by entering it up according to the legal import of the words, it must be on the ground of something appearing on the record; and the Court, in considering whether the verdict shall be established or not, are so confined to the record, that they cannot take notice of any thing that does not appear on the face of it; to make use of the legal phrase, they cannot travel out of the record. The noble judge did travel out of the record, and I affirm, therefore, that his conduct was irregular, extrajudicial, and unprecedented; and I am sure there is not a lawyer in England that will contradict me. His real motive for doing what he knew to be wrong, was, that he might have an opportunity of telling the public extrajudicially, that the other three judges agreed with him in the doctrine laid down in his charge.

Lord *Camden* asked, if lord Mansfield meant to have his paper entered upon the Journals. To which lord Mansfield answered, No! no! only to leave it with the clerk.

Thus in fact, lord Mansfield, after having had the House summoned, made no motion at all; but contented himself with informing the House, that the Paper in question was in the hands of the Clerk, for any lord to take a copy who chose it; nor could any lord make a motion upon the ground of the Clerk's having the paper, no more than they could if the noble lord had told them that the paper was left at the Royal Oak, or the Calf's-head club. In either of these cases, the lords might have satisfied their curiosity, but could not, as lords of parliament, proceed upon it. Indeed, lord Mansfield did not pretend to say, that in their corporate capacity, as a House of Peers, they could take the least notice of the paper; and he himself did not ground any motion upon it.

The House of Lords cleared of Strangers whilst a Peer was speaking.] After this business was over,

The Duke of *Manchester* stood up, in order to make a motion; his grace spoke with an uncommon degree of eloquence; first, upon the just complaints of the people, and the contempt with which those complaints had been treated. His grace then described the state of the nation, and the defenceless condition in which it continued, from the supineness of, and the dislike that was every where shewn to administration. Ask the officers of the army, and they will confess they cannot get recruits. His grace then lamented the want of a sufficient naval power to guard the garrisons of Gibraltar and Minorca: he declared our possession of Gibraltar was of the utmost service to us; that our holding a fort in the Spanish kingdom so many years was at the same time equally an honor to our crown, and a degradation to that of Spain; that it was therefore indisputable, that the Spaniards would be very glad to repossess themselves of that garrison, and would, in case of a rupture, seize the first opportunity of driving us from it; at this time his grace declared, there were but two of our ships at Gibraltar; and one of them has proved so leaky she could not keep the sea—

Here his grace was interrupted by lord Gower, who desired that the House might be cleared of all but those who had a right to sit there; he observed, that when motions were brought on by surprise, and the members of that House had no previous notice to enable them to guess at what they might consist of, and when upon those motions such things came out as ought not to be publicly divulged, no persons but peers should hear them, as in a House so crowded as the present, there might be emissaries from the court of Spain and other powers. And, indeed, another reason why the House ought to be cleared, was, that persons were admitted who took notes of what had passed, as was evident from a speech made by a noble lord, which his lordship declared he had at that time in his pocket in print; there was a standing order of the House, that none but peers should come there, and it was through indulgence that at any time admittance was granted to any other persons.

The standing order of the House was then read, when the duke of Richmond got up, and defended what the duke of Manchester had said, observing, that though it was very true any lord had a right to order the House to be cleared, yet that their doing it now would alarm the people, who would immediately suppose they were afraid their proceedings should be known; and added, that the noble duke not having been charged by the earl with disorder, the earl was irregular in moving to clear the House while the duke was speaking. Immediately a violent outcry arose, and all became clamour, and con-

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fusion. Clear the House! Clear the House! was echoed from side to side. The duke of Richmond's voice was drowned in the clamour; lord Chatham, shocked at the indecency of such proceeding, arose, hoping that his age, his services, his abilities, would force attention; but in vain. Lord Chatham continued speaking, without being heard, for some time. He sent the duke of Richmond to the Speaker (lord Mansfield) to acquaint his lordship he wanted to speak to the construction of the standing order. But he could not be heard. The taste was evidently for lord Denbigh's eloquence. Lord Chatham at length, wearied out with insult, declared, that if he was not to have the privilege of a lord of parliament, and to be allowed the exercise of free debate, it was needless and idle for him to attend parliament. He left the House, and about 18 lords followed his example.

No sooner were these noble persons retired, than, as if the design of the ministry had been to tell the world, that the presence of those members was the only check that controled them from the most violent absurdities, they insisted on the members of the House of Commons being turned out. In the crowd some of the members of the House of Commons represented that they were in the act of their duty, attending with a Bill; they were, however, forced to withdraw, till the message was delivered, and they then attended their Bill in a pretty large body. They had no sooner delivered the Bill, than the outcry began again; time was not given them to see whether they would return or not of their own accord, but they were, in an unprecedented manner, hooted out of the House. Their noisy, indecent, tumultuous proceedings, having driven away a large, respectable, independent part of their own body, they then proceeded to affront the whole Commons of England.

Protest against clearing the House of Strangers.] On this extraordinary occasion the following Protest was entered upon the Journals:

"Dissentient,

"Because a peer, being in the course of a most spirited but proper and decent speech, introductory to a motion of importance to the public safety, which he declared it his intention to make, was, under pretence of speaking to order, interrupted in a manner equally insidious and disorderly. When the peer was thus improperly and groundlessly interrupted, and the standing order No. 112, relative to the clearing of the House, read, another peer getting up to speak to order upon this astonishing interruption, could not obtain a hearing. The irregular, clamorous, and indecent behaviour of several lords who called out incessantly, Clear the House! Clear the House! rendered all argument, and all representation upon the subject, utterly impracticable.

"This indecent and hitherto unprecedented uproar was continued, even when the noble lord on the woolsack stood up with his hat off to explain order; the same tumult, which at first interrupted the lord in his speech, and did not permit the lord who spoke to order to be heard, prevented also any information from the woolsack.

"In this unexpected tumult, in which every idea of parliamentary dignity, the right of free debate, all pretence to reason and argument were lost and annihilated, despairing of being able to hear or to be heard, we found ourselves at length obliged to leave the House; and we cannot, without the utmost concern, reflect upon the method in which the House was cleared, thinking the personal interference of peers, and their going to the bar to require the members of the other House to withdraw, to be equally derogatory from the dignity of the Lords, and disrespectful to the House of Commons.

"We must consider this proceeding (too manifestly premeditated and prepared) to have been for no other purpose than to preclude enquiry on the part of the lords, and, under colour of concealing secrets of state, to hide from the public eye, the unjustifiable and criminal neglects of the ministry, in not making sufficient and timely provision for the national hōnour and security.

"We therefore do now most solemnly protest against the whole of this irregular conduct, as tending to suppress the sober and dispassionate deliberation which ought to guide the proceedings of this House, and to substitute clamour and violence in the place of reason and argument.——*(Signed)* Richmond, Rockingham, Chatham, Northumberland, Huntingdon, Wycombe, Fitzwilliam, Abergavenny, Portland, Torrington, Manchester, Milton, Bolton, Abingdon, Ponsonby, Devonshire."

Then it was moved and agreed to,

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"That the lord on the woolsack be desired to give strict orders to the officers of this House, that no person be permitted to be in any part of the House during the sitting thereof, except such who have a right to be in the House according to the standing orders."

Lord Camden's Questions to Lord Mansfield respecting his Charge to the Jury on Mr. Woodfall's Trial.] Dec. 11. Lord *Camden* attacked lord Mansfield in the following words: My lords, I consider the Paper delivered in by the noble lord on the woolsack, as a challenge directed personally to me, and I accept of it; he has thrown down the glove, and I take it up. In direct contradiction to him, I maintain, that his doctrine is not the law of England. I am ready to enter into the debate whenever the noble lord will fix a day for it. I desire, and insist, that it may be an early one.—He then proposed the following Questions to lord Mansfield, and desired to have his lordship's Answers:

1. "Does the opinion mean to declare, that upon the general issue of Not Guilty, in the case of a seditious libel, the jury have no right by law to examine the innocence or criminality of the paper, if they think fit, and to form their verdict upon such examination?

2. "Does the opinion mean to declare, that in the case above mentioned, where the jury have delivered in their verdict guilty, that this verdict has found the fact only, and not the law?

3. "Is it to be understood by this opinion, that if the jury come to the bar, and say that they find the printing and publishing, but that the paper is no libel, and in that case the jury have found the defendant guilty generally, and the verdict must be so entered up?

4. "Whether the opinion means to say, that if the judge, after giving his opinion of the innocence or criminality of the paper, should leave the consideration of that matter, together with the printing and publishing, to the jury, such a direction would be contrary to law?

5. "I beg leave to ask, whether dead or living judges, then absent, did declare their opinions in open court, and whether the noble lord has any note of such opinions?

6. "Whether they declared such opinions, after solemn arguments, or upon any point judicially before them?"

Lord *Mansfield* replied, that this method of proposing questions to him, was taking him by surprise; that it was unfair; and that he would not answer interrogatories. Lord Camden then pressed for a day to be appointed for the noble lord to give in his answers, and said, he was ready to meet him at any time upon his ground of law. Lord Mansfield shuffled a good deal; but, at last, was brought to pledge himself to the House, that the matter should be discussed. The duke of Richmond then congratulated the House upon the noble lord's having pledged himself to the point. This brought lord Mansfield up again; he said, he did not pledge himself to the House, he only said, that he should hereafter give his opinion. And as to fixing a day, he said, No, I will not fix a day.

The Duke of *Manchester* then made the motion which he was prevented doing the day before, and which was, "To desire his Majesty would be pleased to send a proper force to Gibraltar and the islands of Minorca and Jamaica, for their proper and sufficient defence at this time." He shewed the naked state of all our possessions abroad, and our defenceless state at home; and all this was owing, he said, to the incapacity and pusillanimity of the King's ministers, who were abhorred at home and despised abroad.

The Earl of *Chatham*, in a fine speech, confirmed this melancholy state of our affairs; and added, that he had received intelligence of a plan being formed to attack Gibraltar.

Lord *Sandwich* said, there might be such a plan; and what then? Gibraltar, he said, was open to the sea, and we could retake it, if we pleased; though, upon the whole, he did not think it was of much importance.

The question being put; 14 were for it, and 40 against it.*

Debate in the Commons on some of their Members being turned out of the House of Lords.]† December 10. This day the

* No strangers, not even the members of the House of Commons, were this day admitted; the Lords having given strict orders to all their officers and door-keepers not to admit, for the future, any person or persons whatsoever, except such members of the House of Commons as should come to present Bills, and they to depart as soon as they had made their usual obediences.

† London Museum.—Gentleman's Magazine.

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House being in a Committee on the Ordnance Estimates, the Debate was suddenly interrupted by

Mr. *George Onslow*, who had just been turned out of the House of Lords. As soon as he had taken his seat he rose and said: Sir, I have a motion to make, and I dare say every gentleman will be convinced of the propriety of it; which is, that the House be cleared immediately; nay, I insist upon it, as a circumstance has happened to me within these five minutes, which makes it necessary. I desire, Sir, the House to be cleared, *Peers and all.*

Mr. *Burke.* No! no! no! don't clear the House; the House ought not to be cleared.

Mr. Thomas Townshend, and a majority, were against the House being cleared; but the Resolution of the House being referred to and read by the Clerk, all were ordered to withdraw, excepting such as were members; and the House was cleared accordingly; but not without great opposition. The House was cleared at ten minutes past four. The lords turned out were, the dukes of Richmond, Manchester, Bolton, and Portland, marquis of Rockingham, earl Fitzwilliam, &c. As soon as the House was cleared,

Mr. *Dempster* said, I hope we shall not proceed on any business till we have done ourselves justice upon this insult committed by the House of Lords. I was one who underwent the indignity of being turned out of their House; and I therefore move, that this Committee do immediately break up, that we may consider what ought to be done on this occasion, with the Speaker in the chair.

Lord *John Cavendish.* I agree with the gentleman who spoke last, as to the insult, but hope he will suffer us to finish the business the Committee is upon, and we may afterwards proceed on any motion he may have to make in the House.

The members cried out, Aye, Aye. The Committee soon broke up, and the Speaker took the chair.

Mr. *Dunning:*

Sir; I agree with my hon. friend who spoke some time ago, that we ought to do ourselves justice upon this proceeding of the Lords; for, as a member of this House, I am far from being satisfied with doing nothing more than what the right hon. gentleman on the Treasury bench (Mr. Onslow) proposed some time ago — the clearing the House of all strangers. Because the Lords have indecently turned us out, I do not think we shall do enough in barely following so bad an example. I am by no means satisfied with mere retaliation. The Lords are the aggressors; they have indecently turned us out, and it is not enough after the indignity we have suffered, that we should merely turn out them. I think we ought to go further; and I for one, will not rest till further enquiry has been made into this matter, which has the appearance of a determination to insult us. I therefore move, "That a Committee be appointed to inspect the Journals of the House of Lords of this day, as to what Proceedings and Resolutions are therein, with relation to the not permitting any persons to be present in any part of the said House, during the sitting thereof."

Mr. *George Onslow:*

Sir; when I moved some time ago, that the House should be cleared, it was in consequence of the Lords having turned several members of this House out of theirs; I considered it as an act of incivility and disrespect to the House of Commons, of whose dignity I am too jealous, not to retaliate any behaviour that appears to infringe it. I was impatient to have this House exert the same power over the Lords, which the Lords had exerted over this House. It shall never be my fault, as long as I have a seat here, if we are not even with them. But, Sir, I then thought, and I think still, that retaliation is all that is in our power, and all that ought to be in our wish. The Lords have violated no law of parliament, nor infringed any privilege of this House; they have refused us a favour, indeed, but I cannot think that they have either injured or insulted us. What the hon. gentleman has in view by moving, that the Journals of the Lords should, on this occasion, be inspected, it is beyond the power of my imagination to conceive. The Journals can only tell us what we know already, that the Lords have a right to clear their House; it is true, that they have unhandsomely exerted their right, but we cannot question its existence; neither can we without the grossest absurdity, appear to question it, by searching their Journals, at the very time, when we not only claim, but exert the same right against them. Let us exclude them, as

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long as they think proper to exclude us: I fancy they will tire first, and at length recover their senses and good humour. The motion, I am sure, setting aside the folly of it, can tend only to promote ill blood between us, which we should all wish to avoid; and therefore I shall give my vote against it.

Colonel *Barré:*

The right hon. gentleman has, I think, with great reason intimated that the Lords have acted as if they were out of their senses; but I think we shall act so too, if we adopt his opinion, that the matter should rest where it is. It is to the outrageous and daring behaviour of certain lords, who trust to their majority, that we are indebted for this insult. It was a conduct that shocked the honest part of that noble assembly, who acted in a manner worthy of their principles, and withdrew, that they might not give it a sanction by their presence. I was myself present, and do affirm, that no Cockpit or Bear-garden ever equalled the horrid indecency, which I was there witness to. Sir, we give up the rights of our constituents and our own honour, if we do not resent this usage in an adequate and proper manner; what has been done is, in my opinion, neither proper nor adequate. I think it as improper in us to turn the Lords out of this House, as it was in the Lords to turn the members of this House out of theirs: and I am sure, that by adopting a conduct which has disgraced them, it can never make a reasonable satisfaction for the insult that has been offered to us; I am therefore for the motion, and hope that it will go farther.

Lord *North:*

Whatever may have been the behaviour of the other House, I think that our dignity will always depend upon that of our own: and surely, while we are complaining of unfriendly, and, I think, improper treatment from the Lords, it is wholly inconsistent with our dignity to suffer any part of that House to be reviled, in such language as we have just heard, with respect to those who have thought fit to differ with what the hon. gentleman, who spoke last, has thought fit to call the honest part of the House. I will not dispute the hon. gentleman's knowledge of the dialect and behaviour which distinguish Cockpits and Bear-gardens, nor the delicacy of sentiment and decorum of expression, by which he so eminently distinguished himself. He may probably have been more shocked than a person of less exquisite sensibility and scrupulous punctilio, by the 'horrid indecency,' which he was witness to in the other House; but what right has that hon. gentleman to brand those, who have committed an indecorum, with dishonesty? Let us at least remember that we are gentlemen, and as such give no countenance to illiberal abuse. The conduct of the Lords, in clearing their House of all strangers indiscriminately, including the members of this, I condemn as much as any body; and I wish that, upon this occasion, the Lords only had been turned out of ours, that we might more particularly have shewn a proper resentment of their behaviour, and convinced them that they must expect no admission here, while we are excluded from above: but I agree with my right hon. friend, who sits near me, that retaliation is all that is in our power, and therefore all we should attempt. Searching the Journals of the Lords upon this occasion will be wholly useless in itself, and therefore disgraceful to us. I am clearly against the motion, and to put an end to it, I move you to adjourn.

Lord *Beauchamp:*

I second the noble lord's motion, and must say that I never heard a more preposterous proposal than to inspect the Journals of the other House, when no illegal or unconstitutional extension of their rights is so much as pretended. It is enough for this House to proceed *pari passu* with the other; and when they are ill humoured or peevish enough to shut their doors against us, to shut our doors against them. We have the best remedy in our hands; let us apply that and no other.

Lord *George Cavendish:*

I think this is a question, in which the honour of the House is much concerned; and I wonder, Sir, (turning to Mr. Onslow) that the ghost of a great predecessor of yours does not rise to express his indignation at seeing his son oppose a motion for asserting the dignity of this House against the impertinence of the other. He did me the honour to say, that my family, though nearly allied to the peerage, was always ready to support the dignity of the House of Commons; and

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as I desire always to maintain that character, I beg, Sir [to the Speaker] that you will be so good as to appoint me a Teller in this division, that I may stand upon the Journals as a friend to the House of Commons, in a dispute with the Lords.

Mr. *George Onslow*:

Sir, I must make it my request too, that you will appoint me also a Teller in this question, that my name may be transmitted to posterity with that of my noble friend upon the same occasion. I flatter myself, that my regard for the honour of the House of Commons will appear as conspicuous as his, to those who shall consider the matter, when the tumult of passion shall have subsided. The authority, which the noble lord has cited, will always, as he well knows, be admitted with the utmost reverence and submission by me; but I hope he will suffer me to judge of that authority for myself. I am certain, that the opinion of the person, whose memory I so much honour, would concur with my own upon this occasion, because his character and behaviour were always consistent, and his determinations have been similar in similar circumstances. The noble lord, I think, cannot seriously accuse me of being on the side of the Lords in this affair, as my earnestness to return the compliment they had paid us, must prove the contrary. I shall only repeat my opinion, that retaliation is the proper, the only proper mode of proceeding, and that to do more would be wildness and absurdity in the last excess.

The motion of adjournment being put, the House immediately divided. The Noes went forth:

Tellers.

Yeas	Lord Beauchamp Mr. Onslow	48.
Noes	Lord Geo. Cavendish Mr. Thomas Townshend, jun.	27.

So it was resolved in the affirmative.

Dec. 13. A motion was made, and the question being put, "That a Conference be desired with the Lords, upon a matter highly concerning the good correspondence between the Two Houses of Parliament, and the mutual civility usually shewn by each House to the members of the other House;" the House divided. The Yeas went forth:

Tellers.

Yeas	Lord John Cavendish Mr. Byng	42.
Noes	Sir Alex. Gilmour Mr. Charles Fox	77.

So it passed in the negative.

December 14. Lord *George Germaine* moved, "That the Speaker do write to such eldest sons and heirs apparent of peers, king's serjeants, and masters in chancery, as are members of this House, and to the Attorney and Solicitor General, and request them to attend in their places, every day, at two of the clock, and to assist in carrying Bills to the Lords."

Lord *George Cavendish* seconded the motion.

Lord *George Germaine*, among other things in support of his motion, said, that what he had been urging was for the honour of the nation, in which he did declare, he greatly interested himself.

Governor *Johnstone*, in a reply, took occasion to say, that he wondered that noble lord should interest himself so deeply in the honour of his country, when he had been hitherto so regardless of his own.*

* These words occasioned a duel; the particulars of which are as follow: Governor Johnstone's speech was not, at the time it was delivered, heard by lord George Germaine, but it was soon communicated to him by his friends; and he declared he was sorry that he had missed the opportunity of making an instant replication; but that, however, he would take proper notice of it. On Monday the 17th of December 1770, governor Johnstone was attending the Committee, who were sitting on the petitions relative to the embankment at Durham-yard, when Mr. Thomas Townshend came to him, and desiring to speak with him, took him into another room, where he told him, after making a very polite and gentlemanlike excuse, as to what share he had in the business he came upon, that the reflection he had cast on the character of lord George Germaine, though not heard by himself at the time, had been communicated to him by his friends; and that in consequence, lord George had begged of him to wait on governor Johnstone, to desire he would retract what he had said; that, for his own part, he should be exceedingly sorry to have a quarrel happen between two gentlemen whom he knew, and for whom he had a great respect, and therefore hoped, to prevent the consequences, governor Johnstone would retract what he had said respecting lord George. The Governor

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After some debate, the House divided. The Yeas went forth.

Tellers.

Yeas	General Irwine - - - Alderman Sawbridge	38
Noes	Mr. Onslow - - - - - Mr. Dundas - - - - -	104

So it passed in the negative.

Lord *George Cavendish* then moved, "That no member of this House shall go into the House of Lords while that House, or any Committee of the whole House, is sitting there, without the leave of this House;" but Mr. G. Onslow moving, that the order of the day might be read, the question was put thereupon; when there appeared for Mr. Onslow's motion 103, against it 38.

Lord John Cavendish and Sir George Saville both declared, that they would not go up to the Lords with any Bills, even though they might relate to the county and town they had the honour to represent.

Debate in the Commons on a Motion for deferring the Land Tax until after the Christmas Recess.] December 12. The order of the day being read, for the House to resolve itself into a Committee of Ways and Means, Mr. Seymour moved, "That it be an Instruction to the said Committee, that they do not proceed to consider of an aid to be granted to his Majesty, by a Land Tax, to be raised in Great Britain, for the service of the year 1771, until after the next Recess for the Christmas holidays, several members being absent in the country."

The argument for the motion was, that as a war was not certain, an additional burthen should not be laid upon the land until there was an absolute necessity. The ministry, contrary to the previous declarations of their friends, were determined to bring on the land-tax duty, and to increase it to four shillings in the pound.

Lord *North*, speaking of the times, altered his tone a little for this night only. He said, it was precarious peace—too probable a war: that the French and Spaniards were making great preparations, marching troops to their coasts, &c. that

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said it was very true, he had made use of such and such expressions in the House; that they conveyed his opinion; and that he would maintain and support it. Upon which Mr. Townshend said, in that case, lord George demanded the satisfaction of a gentleman from him; which the other declared he was ready to give his lordship at any time. Mr. Townshend then said, lord George was in an adjoining room, and if the Governor pleased they would go to him. The Governor assented; and Mr. Townshend conveyed him to the room in which lord George was waiting. Lord George repeated the cause of quarrel, and the demand of satisfaction, which the other acquiesced in; and desired his lordship would appoint his own time and place. Lord George then mentioned the Ring in Hyde-park; and, as in affairs of this kind, all times were alike, the present was, in his opinion, as good a one as any. Governor Johnstone entirely agreed with lord George as to the place; but said, that as he was now attending his duty in a Committee, on a subject he had very much at heart, he hoped the meeting lord George an hour hence would make no difference. Lord George said, No; and then spoke as to seconds, informing the Governor at the same time, that he had desired Mr. Townshend to attend him in that light. Governor Johnstone said, there was little occasion for seconds, and that therefore Mr. Townshend should stand in that light as to both of them. Governor Johnstone further said, that as he had at that time an open wound in his arm, and his legs very much swelled, he could wish they would use pistols; to which lord George saying it was equal to him what the weapons were, they separated; and governor Johnstone returned to the Committee. In this conference, as well as through the whole affair, both the gentlemen behaved with the greatest politeness to each other, as well as with the greatest courage. At the appointed hour, lord George and Mr. Townshend were in the Ring, and soon after governor Johnstone, accompanied by sir James Lowther, arrived, whom he had happened to meet in his way, and had solicited to go with him. Lord George accosted governor Johnstone, and desired he would mention the distance, declaring he was then upon his ground, and the Governor might take what distance he pleased. The Governor was taken back by the seconds, about twenty small paces. The antagonists having prepared their pistols, lord George called on the Governor to fire, which the Governor refused, saying, that as his lordship brought him there, he must fire first. Upon which lord George fired, and then the Governor; neither of the shots took effect. Lord George then fired his second pistol, and as he was taking down his arm the Governor's second ball hit his lordship's pistol, broke some part of it, and one of the splinters grazed his lordship's hand. The seconds immediately interposed, and the affair was ended. Governor Johnstone afterwards declared to his friends, that in all the affairs of this kind which he ever knew, or was concerned in, he never found a man behave with more courage and coolness than lord George did on this occasion.

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the money wanted this year would be six millions—perhaps more—he could not tell.

Sir *Edward Hawke* said, that the navy was now in a much better condition than it was in the year 1755, when the late glorious war began; that we had at present 20 ships of the line, full manned, and fit for action, and likewise 20 more in commission, which had got 3,000 seamen towards their complement, and would soon be ready for service; that (without interrupting the outward-bound trade) we had actually 33,000 seamen in pay, which was only 7,000 wanting of the full number voted by parliament.

This was doubted very much by admiral Keppel and sir Charles Saunders. And they asked, why, if the navy was so numerous and ready for service, a squadron was not sent for Gibraltar, (the garrison of which was lower now than in the peaceable time of sir Robert Walpole) and to the West Indies? It was unpardonable to neglect those places.

Sir *Edward Hawke* replied, that, for his part, he did not understand sending ships abroad, when, for aught he knew, they might be wanted to defend our own coast.

Many severe things were said of the ministry; and, in short they were attacked from all sides of the House, upon their ignorance, negligence, baseness, and cowardice. However, they incessantly kept crying out, the question! the question! which at length was put. The House divided. The Yeas went forth.

Tellers.

YEAS	Mr. Seymour - - - - Sir William Meredith	121
NOES	Lord Beauchamp - - Mr. Vane - - - - - -	199

So it passed in the negative.*

Debate in the Commons on the Mutiny Bill.] Dec. 14. On the order of the day for going into a Committee on the Mutiny Bill,

Governor *Pownall* said he had, upon considering the danger which might arise to the constitution, by the discretionary, irresponsible manner in which it was permitted to the civil magistrate, upon every occasion, however slight and unnecessary, to call out the military force and arm himself with it; upon considering how this usage led to the annihilation, at least to the lowering the civil authority; upon considering what mischiefs might arise to the subject, by an imprudent and wanton use of this force; upon considering, said he, these things on one hand, and on the other, to what dangerous snares the officers and soldiers of his Majesty's forces were exposed, by the manner in which it was expected of them to act under their summonses; he had prepared a clause to prevent, as far as such prevention might ever be admitted, the effect and danger of these evils, which he should be glad to offer in the Committee, if the House would authorise the Committee to receive it. He said, that as he understood by conversation with gentlemen on all sides the House, that the idea was in general approved, and that there was no opposition meant to be given to it from any quarter, he should not, in this stage of the business, go into any arguments on the point, and would only explain the purport of it, which was, that a magistrate who should call forth the troops to his assistance, should do it by writing, and sign his name to the reason he gave for calling out this military force; or that the officer should take down the message in writing. He explained the two-fold effect of this in general, and then read the clause.

General Irwin seconded the motion. Upon which the House agreed to order it to be brought up, and "That it be an instruction to the said Committee, that they have power to receive a clause or clauses for regulating the manner in which the Civil Magistrate, requiring the aid and assistance of the officers and soldiers of his Majesty's forces, shall call for that aid and assistance."

The House then went into a Committee.

Lord *Barrington* offered a clause, purporting to keep concealed the opinions of individuals on courts-martial.

Captain *Phipps* said, that although the Bill for which the clause was proposed, did not affect the profession to which he had the honour to belong; yet, as this matter might become a precedent or example, which might be adopted in the ma-

* "The riot in the House of Lords so shocked the delicacy of sir Fletcher Norton, the Speaker of the House of Commons, that upon occasion of some clamour this day, he called to the members, with all the softness of a bassoon, 'Pray, gentlemen, be orderly; you are 'almost as bad as the other House.'" Public Advertiser.

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rine law, he, as a naval officer, must object to it. The proceeding established by this clause would, in all cases, give the air of an unanimous sentence to every sentence; would have an untrue aspect; would be, in some cases, injurious to the members of the court-martial, and unjust and cruel to the unfortunate persons tried; in both cases, whether condemned or acquitted: he wished, therefore, that the inserting this clause might be at least suspended for the present, and that the noble lord would withdraw it.

Mr. *Cornwall* spoke to the same effect, enlarging upon the argument by more particular exemplifications of the effect of such proceeding.

Lord *Barrington* said, that the clause in question had been proposed to him by the Judge Advocate, a good man, and learned in the law: that it was thought by those acquainted with the course of proceeding at courts-martial, that it might have a useful effect, but that he did not patronize it; and, if there were any serious objections to it, or even any doubt about its tendency, he was ready to withdraw it.

The clause proposed by Mr. Pownall was read, directing, "That whenever the civil magistrate called for the officers or soldiers of the army to aid him, he should make his requisition in writing, and give the reason of it, and sign his name; or, if he was so circumstanced that he could not do so, then the officer called upon should take down the message in writing before witnesses." An amendment was proposed by Mr. Fuller, that after the words 'civil magistrate,' might be added, 'or officer:' this was accepted. One puzzle arose as to the manner of making this alteration, occasioned by lord Clare's starting a curious doubt, and insisting upon it, as to the difficulties that must occur, if the civil magistrate or officer could not write. He was answered, that the military officer must take down in writing such parole message as came to him.

Mr. Sheriff *Baker* suggested a doubt, whether if any notice was taken by parliament of this usage, of calling for the aid of the military force, it might not be construed into a recognition by parliament of the practice; and whether any regulations made, or check given in part to this practice, might not give a sanction to the existence of this force, and the use made of it?

Mr. Alderman *Trecothick* said he should always have a doubt of making any regulations for a practice which he thought absolutely unnecessary and improper; and, whilst he was an acting magistrate in the city, he had determined never to call for, or employ, or suffer to be employed, when he could help it, this military force.

Sir *W. Meredith* said, that the House were much obliged to the gentleman who had brought forward a subject that so well deserved consideration; and that it must not rest upon the doubts on which it now existed.

Sir *G. Savile* expressed his satisfaction in hoping, that the discussion of this very important subject might come forward at some future time, when gentlemen, from what had been already said upon it, might take occasion more fully to consider it. That it was a subject of infinite importance; had never yet been adverted to; required a great deal of consideration; that gentlemen who had not particularly, as the gentleman who moved it had done, turned their thoughts to it, could not be prepared to discuss, much less to decide upon it, and therefore begged the gentleman would, for the present, withdraw it.

Mr. *Fuller* was apprehensive it might weaken the hands of government.

Mr. *Dowdeswell* said he had seen the motion, and had much approved of it. He saw that, in every view, good might arise from it; both as it gave a check to the magistrate's lightly and wantonly, at his discretion, using a very dangerous power, and that the regulation proposed put him under a proper degree of responsibility; at the same time that it put the service of the officers of the army, while they were in the act of obedience to the civil magistrate, under a proper regulation, by marking that they were under those orders. He said, in the second place, that he did not, in any light, see how it could do harm; and answered the objections that had been made.

Mr. *Burke* went largely into the objections about the danger of recognizing the existence of our annual army, and the use made of it too frequently, in a wanton, dangerous, mischievous manner: both those facts, whether as facts in history, or facts in law, did stand full in the broad eye of day. He did not like the temper of winking them out of sight, lest the law

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should acknowledge it. There they were, and were most dangerous. The proposing, therefore, a check and remedy to the evil was the most manly way. He was glad to find this matter brought forward. If gentlemen were not at present prepared to consider it, he dared to say the hon. gentleman who moved it would withdraw it for the present; but hoped that, on some future occasion, it might come forward into full and ample discussion, and receive some decision.

Mr. *Pownall* said, that he had not the itch of prating; was not given to speech-making; and, therefore, as he had understood that no opposition would be made to this motion, he had not, when he proposed it, gone further in speaking to it, than by giving a general explanation of the purport of it. He begged, however, the indulgence of the House, to point out the motives which induced him to go into this matter, and to mark the grounds he took. He had not brought this forward precipitately; it was now two years since he first determined upon it. The objections which had been now suggested, had weighed strongly with him, and if, upon a thorough and mature consideration, he had not been fully satisfied, he should not have brought it now forward. He then went into a particular explanation of the grounds he took; distinguished authority from force; shewed how governments are always prone to use force as they lose their authority; and, like schoolmasters, have a predilection for force, as the more summary and decisive way; spoke fully on the nature of constitutional force, as the force of the community, directed by the will of the community; then enlarged on the danger of a military force, as something taken out of the community; shewed it to be a dangerous weapon in the hands of the magistrate, if he might draw it at his discretion; enlarged fully on this point as the ground of his motion; and then explained, very minutely, the dangers and snares to which, in many cases that had happened, and in others that might happen, the soldiery was exposed. He finally said, that as he had taken so long time to consider of this point, and had himself given so much way to the very objections now made, he could not be so unreasonable as to expect gentlemen, upon a few hours conversation in this kind of interlocutory debate, to subscribe to his opinion; that therefore, as he saw it was no parliamentary manœuvre, but a serious wish of gentlemen, that he should withdraw his clause for the present, he begged to assure them, he did it cheerfully, and even wished to do it; he was fully satisfied, as it stood on the votes—that the House had unanimously thought an instruction to some such purpose was proper; and he would certainly, at a future day, bring the matter forward again.

1771.

Debate in the Lords on the Papers relating to Falkland's Island.] January 25, 1771.* The Earl of Rochford, by his Majesty's command, laid before the House the following Papers:

Translation of the DECLARATION signed and delivered by Prince de Maserano, Ambassador Extraordinary from his Catholic Majesty, dated the 22d of February, 1771.

His Britannic majesty having complained of the violence which was committed on the 10th of June 1770, at the island commonly called the Great Malouine, and by the English, Falkland's island, in obliging, by force, the commander and subjects of his Britannic majesty to evacuate the port, by them called Egmont; a step offensive to the honour of his crown;—the prince de Maserano, ambassador extraordinary of his Catholic majesty, has received orders to declare, and declares, that his Catholic majesty, considering the desire with which he is animated with peace, and for the maintenance of good harmony with his Britannic majesty, and reflecting that this event might interrupt it; has seen with displeasure

* During the Christmas recess several changes took place, by which the ministry acquired additional strength. Lord Weymouth resigned the seals, which were given to lord Rochford. Sir Edward Hawke quitting his place of first lord of the admiralty, was succeded by the earl of Sandwich; the earl of Halifax, taking the office of secretary of state for the northern department, which became vacant by this removal, resigned his place of lord privy-seal to the earl of Suffolk. Mr. Bathurst was created baron Apsley, and appointed lord-chancellor; sir William de Grey was made chief justice of the common pleas; Mr. Thurlow attorney-general, and Mr. Wedderburne solicitor-general and cofferer to the queen. Several members of both Houses, who were personally attached to the late Mr. Grenville, and had been violent in opposition, now also joined the ministerial standard.

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this expedition tending to disturb it; and in the persuasion in which he is, of the reciprocality of sentiments of his Britannic majesty, and of its being far from his intention to authorise any thing that might disturb the good understanding between the two courts, his Catholic majesty does disavow the said violent enterprise; and, in consequence, the prince de Maserano declares, that his Catholic majesty engages to give immediate orders that things shall be restored in the Great Malouine, at the port called Egmont, precisely to the state in which they were before the 10th of June 1770; for which purpose his Catholic majesty will give orders to one of his officers to deliver up to the officer, authorised by his Britannic majesty, the port and fort called Egmont, with all the artillery, stores, and effects of his Britannic majesty, and his subjects, which were at that place the day above-named, agreeably to the inventory which has been made of them.

The prince de Maserano declares at the same time, in the name of the king, his master, that the engagement of his said Catholic majesty, to restore to his Britannic majesty the possession of the fort and port called Egmont, cannot, nor ought any wise to affect the question of the prior right of sovereignty of the Malouine islands, otherwise called Falkland's islands. In witness whereof, I, the underwritten ambassador extraordinary, have signed the present Declaration with my usual signature, and caused it to be sealed with our arms. London, the 22d day of January, 1771. Le Prince de Maserano.

Translation of the Earl of Rochford's Acceptance, in his Majesty's name, the 22d of January 1771, of the Spanish Ambassador's Declaration of the same date.

His Catholic majesty having authorised the prince of Maserano, his ambassador extraordinary, to offer, in his majesty's name, to the King of Great Britain, a satisfaction for the injury done to his Britannic majesty, by dispossessing him of the port and fort of Port Egmont; and the said ambassador having this day signed a Declaration, which he has just delivered to me, expressing therein, that his Catholic majesty being desirous to restore the good harmony and friendship which before subsisted between the two crowns, does disavow the expedition against Port Egmont, in which force has been used against his Britannic majesty's possessions, commander, and subjects; and does also engage, that all things shall be immediately restored to the precise situation in which they stood before the 10th of June 1770. And that his Catholic majesty shall give orders, in consequence, to one of his officers, to deliver up to the officer, authorised by his Britannic majesty, the port and fort of Port Egmont, as also all his Britannic majesty's artillery, stores and effects, as well as those of his subjects, according to the inventory which has been made of them. And the said ambassador having moreover engaged, in his Catholic majesty's name, that what is contained in the said Declaration shall be carried into effect by his said Catholic majesty; and that duplicates of his Catholic majesty's orders to his officers shall be delivered into the hands of one of his Britannic majesty's principal secretaries of state, within six weeks: his said Britannic majesty, in order to shew the same friendly dispositions on his part, has authorised me to declare, that he will look upon the said Declaration of prince de Maserano, together with the full performance of the said engagement, on the part of his Catholic majesty, as a satisfaction for the injury done to the crown of Great Britain. In witness whereof, I underwritten, one of his Britannic majesty's principal secretaries of state, have signed these presents with my usual signature, and caused them to be sealed with our arms. London, the 22d of January 1771. Rochford.

After his lordship had laid them upon the table, there was a profound silence for some time.*

The Duke of *Manchester* at length stood up, and observed, that such silence was extraordinary: that though upon the face of the Declaration it appeared very inadequate and insufficient, yet he would form no final judgment without further information, and therefore made a motion similar to that which was this day made in the House of Commons, in substance being, that all the information which had been received by administration, of the designs of Spain upon Falkland's Island, and the papers that passed in the subsequent negociation for the reparation of that injury, should be laid before the House.

The Earl of *Rochford* said, he wished every information relative to this matter

* From the London Museum.

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to be laid before the House, and should not therefore oppose the motion; but would add a few words to it, to restrain it to the business of Falkland's Island, which he thought was not sufficiently guarded in the words of the motion.

Lord *Sandwich* was not satisfied with this, and so altered the amendment as to make it rather unintelligible, in order to furnish pretences upon which papers of consequence might be suppressed.

The Duke of *Richmond* observed, that lord Sandwich's words were moved evidently on the ground of some reservation; that the motion confined the enquiry to the business of Falkland's Island, which ought to be the only restriction, and therefore the amendment was unnecessary, or meant something that it should not.

Lord *Radnor* said, that as the duke of Richmond had first moved the amendment, there was no harm in it, though it was unnecessary; but he suspected something, since lord Sandwich had altered it.

Lord *Sandwich* said, his amendment, instead of narrowing, enlarged the question.

The Earl of *Chatham* remarked, that this generosity, in giving more than was asked, was very suspicious; that if administration had no objection to what was asked, why not give it without making any alteration in the motion? People would suspect that something was meant to be kept back. He said he would not go into the matter of the Declaration; but upon the face of it, it appeared to be an ignominious compromise. It was no satisfaction; no reparation. The right was not secured, and even the restitution was incomplete; that Port Egmont alone is restored, not Falkland's Island.

Lord *Lyttelton* earnestly advised the administration, for their own sakes, not to create suspicions; they ought to begin to inspire the people with some confidence, the want of which was the great defect of the present age.

Lord *Camden* said, the defence of the amendment proved there was something meant by it.

Lord Rochford then finding that his plain meaning lost all credibility and effect, withdrew his amendment, and the original motion was agreed to without alteration.

The Duke of *Richmond* then said, he had another motion to make. That which had been agreed to would bring out all the negociations with Spain; but as the world had strange suspicions that France had too much to do in this transaction, it was necessary to clear this matter, and therefore he would move, "That there be laid before this House, copies or extracts of all memorials and other papers which have passed between any of his Majesty's ministers, and the ministers of the French king, relating to the seizing by force his Majesty's island called Falkland's Island, by the Spaniards, and relating to the negociations had thereupon with the court of Spain, if any such negociation with the court of France had been had."

Lord *Rochford* said, he had agreed to giving the other papers, because they existed; but must object to these, because no such were in being.

The Duke of *Richmond* said, that though he would not dispute the credibility of lord Rochford, the nation ought not to take the word of any minister. Let the motion go: if no such papers existed, the King would say so, and then the King's word, which every body must believe, would be pledged; but if any negociation with France had been carried on, it was fit the public should see it, and punish those concerned; for it would be giving efficacy to the family compact. As to the Declaration, he said, he could not leave the House without making one observation upon it, which was distinct from all information that the papers might produce; and it was, that he wondered any minister should dare to accept, in the King's name, a Declaration in which the right of sovereignty of the island was brought into dispute; that in the time he was in administration, the Spanish ambassador had attempted to make it a matter of discussion; but that he, and he believed all other ministers up to this day, had never suffered it to be so much as made a matter of doubt.

Lord *Chatham* strongly supported the duke of Richmond's motion. He said, that House should never take the word of a minister; that the refusing this motion shewed that some transaction with France had passed, perhaps not papers or memorials. As lord Rochford said none had passed, he believed him; but that France had interfered, he said, he knew to be a fact that could not be denied.

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Lord *Rockford* rose again, but made no answer to this part of lord Chatham's charge of verbal communication and negociation with France. He said, he would answer all other charges when the day of examination should come.

Lord *Suffolk*, lately appointed lord privy seal, then got up, and said, he had the utmost confidence in the ministry; that as they said no negociation with France had passed, he thought that assurance fully satisfactory.

The Duke of *Richmond* repeated, that the nation had a right to more; that the King's word alone would satisfy them; that he would have the ministers shew the whole of their conduct to the public; if right, they would receive their thanks; but, for his part, while they pursued their present system of oppression at home, and meanness to foreign powers, he ould never alter his opposition to them.

The motion was then negatived.

*Debate in the Commons on the Papers relating to Falkland's Island.**] Jan. 25. Lord North presented to the House the Papers relating to Falkland's Island, which will be found at p. 1336. After the Clerk had read the papers,

Lord *North* said he should not say much, as he meant to reserve himself for the day on which this business should become the object of the consideration of the House. That he was sure it would then appear, that the agreement was equal to what the King or the ministry had promised to obtain, or that the King or the subject had a right to expect. He was ready to avow the part he had in it: he freely put himself, for his life and his honour, upon the House, for whose judgment he ever had implicit deference, and whose opinion was his only guide in all his actions.

Mr. *Dowdeswell* in this early stage of the business was free to declare, that he thought the convention not only inadequate, but highly unsafe and disgraceful. That it had neither provided reparation for former hostilities, nor security against future. That it was equally dishonourable to the crown itself, which the ministry considered as the only object of reparation. He said, the king of Sardinia was indeed a respectable monarch; but in comparison of the power of France, he was a little prince. Yet, when the territorial rights of that prince had been infringed, only in the pursuit of a dangerous and notorious Mandrin, a smuggler and a murderer, yet the king of France sent an ambassador extraordinary, in the most solemn and public manner, and made an apology for it. The king of Portugal was respectable too, but inferior certainly to the crown of Great Britain; yet, when our fleet under Mr. Boscawen, in pursuit of their enemies, destroyed some French ships on the coast of Portugal, we sent an ambassador extraordinary to the court of Lisbon, to make reparation in honour; for if, said he, the rank of the power injured, the nature of the offence, the delay, the expence, and the unwilling, poor, and forced apology, were compared with those made by France to Sardinia, and by Great Britain to Portugal, it would easily appear how far the ministry had provided for the honour and dignity of the crown. He concluded with moving, "That there be laid before this House copies of all claims and propositions of the court of Spain relative to Falkland island, since the first settlement of it by his Majesty's orders, together with such answers as have been received by the King's ministers to such claims and propositions: and also copies or extracts of letters, and other papers, containing any such intelligence received by any of his Majesty's principal secretaries of state, or by the commissioners for executing the office of lord high admiral of Great Britain, or by any other of his Majesty's ministers, since the 1st of June 1770, touching any hostilities actually commenced by, or any warning, or other measures, indicating any hostile intention of the crown of Spain, or any of its officers against his Majesty's island, called Falkland's island, and all accounts of the reduction and capitulation of the same; and also copies of all requisitions and demands made thereupon to the king of Spain, or any of his ministers, and for such reparation and satisfaction as his Majesty had a right to expect, for the injury he had received by the insults upon the honour of the crown, in the seizure by force of the said island, and for obtaining security for the rights of the people, which were deeply affected by the said injury; with all answers to the said requisitions and demands; and also, copies or extracts of all letters or instructions sent thereupon to his Majesty's ministers at Madrid, and

* From the London Museum.

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of all letters relating thereto received from the said ministers by any of his Majesty's secretaries of state, or other ministers at home."

Lord *North* said, he believed he should have no objection to the motion, but desired he might divide it into three, as it had three different objects (which was done.) He then observed, that the words of the motion (proposed to be taken from the King's Speech) were not the same as in the Speech, the latter saying, that the honour and dignity of the crown, and security for the rights of the subjects had been invaded, and satisfaction demanded for the injury. That he desired it might be understood, that the rights of the subjects had been in dispute, no further than as the honour of the crown included them. Now, the words of the motion being "for the injury done to the honour of the crown, and the rights of the subjects, which were deeply affected," he therefore moved to leave out 'were,' and put in 'was,' which then would only relate to the dignity of the crown.

Mr. *Dunning* observed, that the noble lord need not make so many apologies to excuse himself from taking care of the rights of the people, as no one ever laid a fault of that sort to his charge; that if the Speech meant two objects, the motion also meant two; if only one, the motion had only one, therefore he saw no reason for an amendment.

Mr. *Dyson* talked about the caution with which the Speech had been made, and how necessary it was to preserve the ideas of it: that the motion tended to declare the opinion of the House, that the rights of the people had been invaded, which never had been done by the House.

Colonel *Barré*, in reply, compared him to a smoke ball, which blinds the enemy, and at the same time prevents themselves from seeing or being seen. He spoke with great spirit against the infamy of the treaty; denouncing the vengeance of the nation on those ministers who had so wantonly destroyed the honour and dignity of the nation. He called the Spanish Declaration scandalous and infamous; dishonourable to the crown, and disgraceful to the nation. He threatened the ministers with the loss of their heads, for making a convention, which, he said, stabbed the honour of the nation to the heart. He promised, that when the merits of the Spanish Declaration came under examination, he should speak fully to it; but at present, he could not help observing, there was not a man in England who did not condemn that Declaration. What! four months arming! and four months negociating! and is this all!—The noble lord (North) said in this House before the holidays, that Spain should pay a part of the expence we had been at, in making preparations to resent the insult. But there is not a word of the expence in the Declaration. At this rate, it will always be in the power of an inferior nation, nay, even of an individual to ruin us, who have nothing to do but to take a rock from us, and put us to three millions expence, to make preparations to recover it. The enemy was not ignorant of the weakness and cowardly disposition of the ministers. The enemy know you dare not go to war (to lord North), and therefore refuse to make us any satisfaction. There is not an honest man in England who does not abhor the present set of ministers. There is not a petty prince in Europe, who does not laugh at and despise them. Thus it is in the power of any individual to put us to an enormous expence, and our ministers dare not avenge the affront. They dare not go to war, because they are afraid they shall lose their places. Thus the nation is exposed to insults abroad; and left a prey to jobbers and sharpers at home. A French secretary, being in your secrets, has made near half a million of money by gaming in your funds.* And some of the highest among yourselves have been deeply concerned in the same scandalous traffic. But a day of reckoning will come. This country cannot be in quiet, while every thing that is dear and valuable to the people is thus ravished from them.

Lord *North* denied that he had ever said Spain should pay a part of the expence. He declared, that he could not have said so, because he had never entertained the least idea of making such a demand.

Mr. *Charles Fox* observed, that if it was all smoke on one side of the House, it was all flame and fire on the other side, which was equally bad; that there was an essential difference between the rights of the people, and the security of the rights of

* M. François, secretary to the French ambassador, was supposed to have realized nearly half a million in the Alley.

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the people; that the latter, and not the former, had been the object of the ministry. He added, that he did not remember the noble lord to have ever made use of any such words, as that Spain should pay a part of the expence. [He looks very much like his father.]

Colonel *Barré* said, he had not trusted to his own memory only, for his account of that fact. He asked several other members, who all remembered the words.

Mr. *Burke* said, he remembered the words. He then commented upon Mr. Fox's distinction between the rights of the people, and the security of the people's rights; which was very logical, but that the people are so dull, that they would conceive, in spite of what the hon. gentleman had said, that if there were no rights they needed no security. He owned the satisfaction from the Spaniards was the most adequate to the injury, in respect to the crown, as they had taken a barren, desolate rock, and had restored as barren, desolate a rock; but what satisfaction had the people received for all that treasure which had been expended? The noble lord had promised we should have some recompence for our expences, but he had provided none. This Declaration was the joint production of three kings, two plenipotentiaries, five secretaries of state, one first lord of the Treasury, two first lords of the Admiralty, two lords privy seal; the old privy seal (said he) I suppose, was worn out, and it was therefore necessary to have the convention stamped by the virgin intaglia of a new statesman; 500 messengers, 40,000 seamen, 13,000 landmen, 40 sail of the line, and three millions of money! I say this Declaration, this wisdom, this spirit of the ministry, this vindication of the honour of the crown, this security of the rights of the subject, which all lies in a nut shell, has cost the nation above three millions of money? The land-tax was prematurely voted; or rather, the country gentlemen have been duped out of 500,000*l.* The trade of this country has been greatly distressed and injured; and all this for what? Why, to procure that scandalous, base, and dishonourable Declaration that lies upon the table. It was made, I admit, on the true principles of trade and manufacture. It puts me in mind of a Birmingham button, which has passed through an hundred hands, and, after all, is not worth three halfpence a dozen.

At one time while Mr. Burke was speaking, there was such a noise from some of the members going out, others coming in, and others talking, that he was obliged to sit down for a short time. When he got up again, he began with words to the following purport: Is this House so irregular, so totally lost to decency and good manners, that I cannot be heard when I am speaking to a question of the utmost importance to these kingdoms in general, and to our constituents in particular? Are the ears of this House to be wilfully misled from giving attention to me, when I am arguing on a point of such a nature, that there must be blood, I say blood, to atone for the misconduct of those who transacted this dark affair? The day may not be immediately at hand; but it cannot, it must not, be at a very great distance; it will come, when the lives of some concerned in this business must make atonement to this injured nation.

At last Mr. Dowdeswell agreed to lord North's amendment, and the debate ended.

*Report from the Select Committee on the Shoreham Election.**] Jan. 29. The House proceeded to take into considera-

* "A remarkable scene of corruption was about this time brought to light, by the select committee appointed to determine a contested election, for the borough of New Shoreham, in the county of Sussex. The matter of contest was, that the returning officer for that borough had returned a candidate with only 37 votes, in prejudice to another who had 87; of which he had queried 76, and made his return without examining the validity of the votes he had so queried.

"It appeared from the defence made by the officer, that a majority of the freemen of that borough had formed themselves into a society, under the name of the Christian Club; the apparent ends of which institution were to promote acts of charity and benevolence, and to answer such other purposes as were suitable to the import of its name. Under this sanction of piety and religion, and the cover of occasional acts of charity, they profaned that sacred name, by making it a stale for carrying on the worst purposes; of making a traffic of their oaths and consciences, and setting their borough to sale to the highest bidder; while the rest of the freemen were deprived of every legal benefit from their votes.

"The members of this society were bound to secrecy and to each other, by oaths, writings, bonds with large penalties, and all the ties that could strengthen their compact; and carried on this traffic by the means of a select com-

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tion the Report from the Select Committee, appointed to try and determine the merits of the Petition of Thomas Rumbold, esq., complaining of an undue election and return for the borough of New Shoreham; and the Resolutions of the Committee were read, as follow:

Resolved, "That it appears to this Committee, 1. That, at the last election for New Shoreham, 87 persons voted for Mr. Rumbold, 37 for Mr. Purling, and four for Mr. James; that all who voted for Mr. Rumbold, except one, took the bribery oath before they gave their votes; that Hugh Roberts, the returning officer, put queries to the names of 76 of the voters for Mr. Rumbold, at the time they gave their votes; and, immediately on the close of the poll, declared Mr. Purling duly elected.

2. "That the conduct of the returning officer, in taking the poll, and making the return, at the said election, was illegal.

3. "That, in the borough of New Shoreham, a society has for many years subsisted, which has assumed the name of 'The Christian Society;' that none but voters for representatives in parliament were ever admitted into the society, and that a great majority of the voters for New Shoreham were members; that the society had a constant clerk; that they held a regular monthly, and frequent occasional meetings; and that, whenever they met, a flag was hoisted, to give notice of such

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mittee, who, under pretence of scruples of conscience, never appeared or voted at any election themselves; but, having notwithstanding sold the borough and received the stipulated price, they gave directions to the rest how to vote, and by this complicated evasion, the employers and their agents having fully satisfied their conscience, shared the money as soon as the election was over without any farther scruple.

"The returning officer had belonged to this society, and, having taken some disgust to his associates, had quitted their party. The majority of legal voters which he objected to, was, he said, in part owing to his experimental knowledge of their corruption, and partly founded upon several improper acts, that had come within his knowledge as a magistrate upon the late election, particularly an affidavit of a very considerable sum of money, which had been distributed among them. Upon these grounds, though they had the hardiness to take the oath against bribery and corruption, he looked upon them as disqualified; and having besides taken the opinion of counsel, which, it seems, coincided with his own, he returned the candidate who had the smaller number of voters, as they were free from these objections.

"Upon these principles, and his not acting intentionally wrong, the officer rested his plea of justification for the illegality of his conduct. As the assumption of such an act of power by a returning officer, upon whatever principle it was founded, would however have been a precedent of the most dangerous tendency, he was accordingly taken into custody; but in consideration of the circumstances in his favour, and of his bringing so infamous a combination to light, he was discharged, after receiving a reprimand upon his knees from the Speaker in the presence of the House.

"As this combination at Shoreham was of too flagrant a nature to be overlooked, and the select committee had not powers to proceed any farther in it, they reported the whole matter to the House, and moved, that they would make a farther enquiry into it; though this met with an opposition from some of those, who, having no good wishes for the late act for regulating the trial of controverted elections, were glad of so early an opportunity to point out its inefficacy, and depreciate its merits; yet the general excellency of that law, notwithstanding any of its present deficiencies, which every day's experience would give new opportunities of supplying, carried with it such conviction as to be already well understood, and the motion for an enquiry was carried through without a division.

"The allegations, made by the returning officer, having been as fully proved, in the course of this inquiry, as the nature of the case would admit, and entirely to the satisfaction of the House, a bill was at length brought in, to incapacitate 81 freemen of Shoreham, by name, from voting at elections of members to serve in parliament, and for the preventing bribery and corruption in that borough; and at the same time an address was ordered, for the attorney-general to prosecute the five members of the Christian Club who composed the committee which transacted the bargain as to the sale of the borough at the last election.

"The different transactions, however, consequent of this subject, run through the whole session, and it was not till the last day of it, that the Bill received the royal assent. The members of the club were heard by counsel against it. Many doubts arose as to the mode of the punishment. It was proposed to disfranchise the borough; this, however, was thought too dangerous a predecent; others thought that the culprits should be left to the punishment of the law; but though there was a clear conviction of their guilt, it was a matter of such a nature, as made the establishment of legal evidence very difficult; and if they escaped without some signal mark of reprobation, it would be an encouragement to the most barefaced corruption, when the whole kingdom saw that it could be done with impunity." Annual Register.

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meeting: that the members of the society, about three years ago, entered into articles for raising and distributing small sums of money to charitable uses; but that these articles were designed only to cover the real intent of their institution: that the principal purpose of their meetings was for what they called burgessing business; that they all took an oath of secresy, and entered into a bond, under a penalty of 500*l.* to bind them all together, with regard to burgessing; but that the condition of the bond does not precisely appear: that, upon any vacancy in the representation of the borough, the society always appointed a committee to treat with the candidates for the purchase of the seat; and that the committee were constantly instructed to get the most money, and make the best bargain they could: that the society never appointed a committee for any other purpose; and that they had no standing committee: that on a false report of the death of sir Samuel Cornish, in February last, the society was called together by the signal of the flag; that many of the members at that meeting, which was very numerous, declared they would support the highest bidder; that some, and amongst them Hugh Roberts, the returning officer at the last election, expressed themselves offended at such a declaration, and said, that they were afraid of consequences, for the society was only a heap of bribery; and withdrew from the society: that one of those who withdrew, going about two months ago to a meeting of the society, was treated with harsh expressions, and told he came amongst them as a spy: that, however, the society continued to meet; that their meetings were frequent near the time of the election; that it was said that a committee was appointed after the death of sir Samuel Cornish; that none of the members said to be of that committee voted at the last election, though most of them were in New Shoreham on the day of the election; that, three days before the election, the society was reported to be dissolved; but that the members of it have since resumed their meetings.

4. "That this Committee, having tried the matter of the Petition referred to them, cannot make any further enquiry into the transactions of the said society.

5. "That a further enquiry into the transactions of the said society ought to be made."

The four first Resolutions of the Committee were postponed. The subsequent Resolution was agreed to by the House.

Some gentlemen of the ministry wanting to throw cold water on Mr. Grenville's Act for regulating the trial of controverted elections, said, the Resolutions the Committee had agreed to, could not be agreed to by the House, as they related to facts proved indeed to the Committee, but which the House had no evidence of. That if farther proceedings were necessary, it was in the power of any one of the Committee to move for such proceedings, which, on just grounds, the House would certainly grant; but that there seemed a deficiency in the Act, in respect to the further proceedings: they therefore wished, that the proceedings on the report from the Committee should end.

To this it was answered, from all sides of the House, that the Act was a favourite Act both within and without doors: that the Committee, in the first instance of their judicature, had given a very proper determination, and had as properly applied to the House to proceed further than the Committee were empowered to do: that the motion was properly a recommendation to the House to proceed against such a notorious species of corruption, and was in the nature of a presentment from a grand jury: that an accusation of this nature came with infinitely more weight from the Committee, than it could have done from a single member: that if the House did not take steps in consequence of this recommendation, the Act would, in its effects, be an Act to establish bribery and corruption, as every returning officer and voter would naturally say "The Select Committee can only determine the merits of the election, and not punish any of our misdeeds, as the House used to do."

These arguments had so much weight, that it was carried, without division, to proceed further against the Christian Club at Shoreham.

Proceedings against the Returning Officer of New Shoreham for a false Return.] Feb. 8. The Returning Officer of New Shoreham was called to the bar. In his defence he informed the House, "That there was a club instituted at Shoreham, called the Christian Club, who were under oath of secrecy and bond, to agree with the majority of the club, and not to break it up. That he had been one of that club; but observing the illegal lengths they had gone to, he desired to be voted out of it,

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which he was refused. That an additional article was made, that any member, not paying his arrears for three months, should be excluded the society; on this article he, and several others, got out of the club; that on the death of sir S. Cornish, the late member, five candidates came from London; that the agent of one of them mentioned, when he was in company, that the club had appointed a committee of five to treat with candidates; and that general Smith, one of them, had offered 3,000*l.* and to build, at Shoreham, 600 tons of shipping (the manufacture of the town) but that Mr. Rumbold had bid them more. That the club always directed the person they elected, not to take notice of the voters who were not of the club. That at the last election an affidavit was made and read, that Mr. Rumbold's agents had agreed with the club, and that they were to have 35*l.* per man. On those accounts, namely, his knowledge of the principles of the club; their appointing a committee to treat with the candidates; the report of general Smith's agent, and the affidavit of their being bribed; he had looked upon those voters as disqualified, though they had taken the bribery oath. If he had done wrong, he submitted to the House, that it was not his intent to do so, but through ignorance of the law, he therefore submitted himself to the House."

It being late, the House deferred the further hearing to the 12th.

Feb. 12. The Returning Officer of Shoreham again brought to the bar. He called one or two witnesses to prove that the counsel at the election had told him he might reject the votes, if he in his own mind thought them illegal: he therefore submitted to the House, that, as his intention had been good, he had not acted wilfully wrong; that if he had acted illegally, he submitted himself to the House.

Resolved, "That Hugh Roberts, the late Returning Officer for the borough of New Shoreham, having, at the last election for the said borough, received upon the poll 87 persons who voted for Mr. Rumbold, and who all, except one, had taken the bribery oath; and 37 who voted for Mr. Purling; and having, immediately on the close of the poll, declared Mr. Purling duly elected, and returned him accordingly, hath thereby acted illegally, and in breach of the privilege of this House."

Ordered, That the said Hugh Roberts be, for his said offence, taken into the custody of the Serjeant at Arms attending this House.

Feb. 14. Hugh Roberts was, according to order, brought to the bar; where he, upon his knees, received a Reprimand from the Speaker; and was ordered to be discharged out of custody, paying his fees. The Reprimand was as follows:

"Hugh Roberts; you have been convicted, upon the clearest and most satisfactory proof, of returning a member to this House, against a very great majority of votes admitted by yourself, and which now stand upon the poll.

"This offence, considered in the abstract, and without the accompanying circumstances, is a crime of an atrocious nature; it strikes at the very being of this House: for, if practices of this sort were to obtain, the Commons of Great Britain, who are now the representatives of the free people of this kingdom, would be merely the delegates of corrupt returning officers.

"In vain have our ancestors been anxiously careful to secure the freedom of elections, by all the means human wisdom and foresight could suggest; in vain have they particularly guarded against the partiality of the returning officer, and obliged him, by every tie, to a faithful discharge of that trust, which the constitution hath reposed in his hands, if men are to be found daring enough to send members to this House, who were never chosen by the legal electors.

"You have said, that you did not receive the votes absolutely, but only admitted them to poll conditionally, and subject to future revision, as appears by the queries set against their names.

"I think this circumstance, alone, was it true, would not much avail you; for I have always been of opinion (although I do not know that the Resolutions of the House have gone so far) that the practice of receiving votes with queries by the mere authority of the returning officer, and without the consent of the parties, is illegal; I am sure it is dangerous; for, if once it be admitted by this House, that the returning officer has a right to receive votes upon terms which are to subject them to his future decision, after the poll is closed, and the numbers known, it will always be in the power of that officer, so to manage the queried votes, as to return

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which of the candidates he pleases; and, if he is either an artful man himself, or artfully assisted by others, he will also be able so to do the business, as to make it difficult to set aside what he hath done, and more difficult to punish him for doing it.

"But your case does not afford you even this excuse; for it has been proved, that, although you reserved the queried votes for future discussion and re-consideration, you made your return without either, as soon as the poll was over; rejecting, as you declared, all those who had voted for one of the candidates (which amounted to a great majority of the whole) on account, as you alleged, of corruption; notwithstanding you had administered the oath against bribery to all, except one, of those you thought proper to reject.

"There are, however, circumstances in your case which greatly extenuate your offence, and which the House hath, with pleasure, laid hold of, to mitigate the severity of your punishment; and this they have done at the recommendation of those very respectable gentlemen who composed that committee, which, by its conduct upon this occasion, hath merited, not only the thanks of this House, but the general applause of the public. By a steady attention to justice, and a firm perseverance in obtaining it, they have surmounted a variety of difficulties, in carrying into execution a new law, which has founded a new court of judicature, for the trial of parliamentary elections; a law, which, if it continues to be executed for the future, with equal abilities and integrity, as it has been in this instance, will be a blessing to this country, and do honour to the memory of the person who planned, and to the parliament which adopted and passed it.

"You have proved, that you were formerly a member of a club, in the borough over which you presided, which hath profanely assumed the name of 'The Christian Club;' a club, instituted for the most infamous purpose, that of selling the borough to the highest bidder; that this club consists of a great majority of the electors; and that the members of it bind themselves, to one another, and to secrecy, by oaths, in writing, and bonds with large penalties; that they carry on this scandalous traffic by a select committee, who never appear or vote at any election, on account of their scruples of conscience, having actually received the stipulated price of the borough; but that the rest of the members of this club vote as they are directed by their committee, and, without hesitation, take the oath against bribery (as they did in the present instance) and, when the election is over, receive their share of the price which has been paid to their factors.

"You proved likewise, that you voluntarily quitted this club in February last, when there was no vacancy, and when you could have no expectation of being the returning officer, in case a vacancy should happen: it has likewise appeared in evidence that you acted by the advice of counsel.

"And you have insisted, that though you may have acted illegally, you have not acted intentionally wrong; and that you should not have rejected the queried votes if you had not been convinced in your conscience that they were all corrupted.

"These are the favourable circumstances under which the House have considered your case; and on account of them, have inflicted upon you the mildest punishment that the nature of their proceedings will permit.

"And I am, in obedience to their commands, to reprimand you for this offence; which I now do: and I am, by their order, to acquaint you, which I also do, that you are discharged, paying your fees."

Ordered, *nem. con.*, That Mr. Speaker be desired to print the Speech by him made, upon reprimanding the said Hugh Roberts.

Feb. 18. The returning officer of New Shoreham, and some persons who had been members of the Christian Club at that place, were examined. They said, "they had been originally members of that club; that the institution of the club was to get as much money as possible at every election, from the person they brought in; that they were under oath and bond of 500*l.* not to divulge the secrets of the club, and to be bound by the majority; that on an election, a committee of five were nominated by the club to treat with the candidates for as much money as they could get, and that they themselves had left the club, for fear of being brought into a scrape from the illegality of their proceedings."

Upon this a Bill was ordered to be brought in, to incapacitate those particular men who were of the club, from voting at elections of members to serve in parliament;

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and for the preventing bribery and corruption in the election of members to serve in parliament, for the borough of New Shoreham."

No member but Mr. Charles Fox opposed the motion for bringing in the Bill, who said, the witnesses had not proved the facts, and that if they were guilty, they ought to be proceeded against according to law.

Resolved, That an humble Address be presented to his Majesty, that he will be graciously pleased to order his Attorney General to prosecute William Hards, Thomas Gear, William Rusbridge, Henry Robinson, and Henry Hannington, for an illegal and corrupt conspiracy, in relation to the late election of a member to serve in parliament for the borough of New Shoreham.

Motion for Questions of Law relating to Falkland's Island to be put to the Judges.] February 5. The Earl of Chatham moved that the following Questions be put to the Judges:

1. "Whether, in consideration of law, the imperial crown of this realm can hold any territories or possessions thereunto belonging otherwise than in sovereignty?"

2. "Whether the declaration or instrument for restitution of the port and fort called Egmont, to be made by the Catholic king to his Majesty, under a reservation of disputed right of sovereignty, expressed in the very declaration or instrument stipulating such restitution, can be accepted or carried into execution without derogating from the maxim of law before referred to, touching the inherent and essential dignity of the crown of Great Britain?"

The motion was negatived.

*Debate in the Commons on Sir G. Savile's Motion for a Bill to secure the Rights of Electors.**] February 7. Sir George Savile moved, "That leave be given to bring in a Bill for more effectually securing the Rights of the Electors of Great Britain, with respect to the eligibility of persons to serve in parliament." In a speech prefatory to his motion, he explained the purport of his intended Bill. He had observed, he said, that in the divisions on the Middlesex election, three principles seemed to be started subversive of the constitution. The first was, that the House of Commons could, by its own power, make law. The second, that one determination of the House was such law. The third, that incapacity was the consequence of expulsion. To all these points, as unconstitutional, and against law, he objected; but as the doctrines had, in some degree, been established by the divisions of the Middlesex election, he thought no means could so properly put an end to them as an act of the whole legislature. That, by so doing, he did not mean to have any retrospect to alter the former divisions, but only to prevent them in future. That this proposed Bill would, therefore, condemn those propositions.

The ministry opposed this on different principles.

Mr. *Charles Fox* said, there could be no occasion for a Bill of this nature, as to the two first propositions, which were so absurd that no person could give any assent to them; but that on the third, and on that alone, he had founded his own opinion in respect to the late divisions.

Others supported the determinations on the first propositions; but on the whole, the arguments were, on both sides, a mere recapitulation of those used last year. The principal speakers for the motion were sir G. Savile, Mr. Wedderburn, lord J. Cavendish; serjeant Glynn, who spoke exceedingly well. Against the question: Mr. C. Fox, who spoke very ably; Mr. George Onslow, and the Attorney General, who also spoke very well.

* "On Thursday the 7th instant, before sir George Savile moved in the House of Commons, on an election matter, sir J. T. one of lord B.'s lords of the treasury, got up, and proposed, that as there had been so lately a call of the House, and they were likely to be crowded, the House should be cleared. The standing order of the House was accordingly read, and the Serjeant at Arms had authority to seize all strangers, and not to dismiss them without the leave of the House. Before the gallery was quite cleared, some members of the Irish House of Commons were excepted, but very few remained behind; though the hon. Thomas Townshend, like a true Englishman, beckoned to them to resume their seats. The Serjeant and the door-keepers were afterwards obliged to go several times, and to drag out a few persons who were unwilling to leave the gallery. After the House was cleared, sir Joseph Mawbey begged sir J. T. if he was too hot, to pull off his great coat. Sir J. answered, that at present he felt no inconvenience from it; but when he did, he would take his advice. George Onslow, who shewed himself such a dear old friend to Mr. Wilkes, got up, and discovered the same friendship for the press. He said, that as long as

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In the course of the debate, Mr. C. Fox, speaking of the precedent of Mr. Walpole, in the Resolution of the House against his re-election, the words, "And having been guilty of notorious bribery, and been expelled for the same, was, and is, incapable," observed, that the incapability must relate to the expulsion, and not to the bribery mentioned in the Resolution; and, therefore, that might have been omitted, being quite nugatory.

Sir G. Savile, in answer to this, observed that the hon. gentleman was right in his observation, as, who ever heard of bribery being a bar to any one to sit in that House? which occasioned a great laugh.

The House then divided. The Yeas went forth.

Tellers.

Yeas	Lord George Germaine Mr. Ald. Trecothick	103
Noes	Lord Gage - - - Mr. Charles Fox - -	167

So it passed in the negative. One reason the numbers were but small on either side, was, that this point, having often been debated, several paired off, and the question being put before it was expected, many gentlemen were absent in the coffee-houses.

Debate in the Commons on the Address approving of the Spanish Declaration, respecting the Seizure of Falkland's Island.] February 13. The House took into consideration the Papers relating to the Convention with Spain.

Lord *Beauchamp* moved, "That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House, for the communication which his Majesty has been graciously pleased to make of the Declaration signed and delivered by the prince of Masserano, on the part of his Catholic majesty, the 22d of January last, and of his Majesty's acceptance thereof.—To testify to his Majesty, our sincere satisfaction, at finding that the king of Spain has, in compliance with his Majesty's just demand, disavowed the violent enterprize against Port Egmont, in Falkland's Island, and engaged to give immediate orders for restoring all things to the situation in which they stood before the time of the said enterprize.

"To express our hope, that the spirit of moderation, as well as the firmness, which his Majesty has manifested in his conduct upon this occasion, will, by inclining the other powers of Europe to concur with his Majesty in his views of preserving the general tranquillity, prove the means of securing to his Majesty and his people the permanent enjoyment of honourable peace.

"And to assure his Majesty, that in every situation, his faithful Commons will steadily persevere in giving his Majesty their most affectionate and zealous support."

Lord *Palmerston* seconded the motion. The arguments in favour of the Address, were, that our disputes with Spain were on a point of honour, not matter of right; that Spain having offered an affront to England in dispossessing her of a fort and island in time of peace, the national satisfaction to be demanded was restoration of that fort, and disavowal, on the part of the king of Spain, of the enterprise of his governor; that having obtained both these points, the honour and dignity of England had been fully satisfied; that this Address was couched in modest terms, not a fulsome compliment to administration; and necessary, in the present instance, to shew to Spain that England was satisfied, and need be under no further apprehensions of war;

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the news-papers published the Debates, he would always move the House to take this step; that none but the House had a right to print them; and that this would shew whether any of the members were concerned in writing them. Several members got up and said, that they were astonished to hear him make this motion, seeing that the writer of the Debates, whoever he was, had greatly improved the hon. gentleman's speeches, and made them sense and grammar; that the impartiality which reigned throughout the speeches, evidently shewed, that they could not be composed by any man under the influence of party; that no member would be so mean as to take the trouble of arranging the thoughts, or polishing the language of any man's speech but his own, &c. After these bickerings ended, sir George Savile rose, and explained the nature and reasonableness of this motion, which he was going to propose. But so regardless were the court members, of argument and eloquence, that tides of them poured out of the House, in order to go to dinner, while sir George was speaking with great force of argument and eloquence. A man of his weight and authority they treated as slightly as they had treated Mr. Burke on the subject of the Spanish papers. Counsellor Leigh said to lord Clare as he was coming out, 'Fye, fye, my lord, is the 'House too hot for you?' while he was shivering with cold, and thrusting his hands up in his great muff." London Museum.

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that in point of prudence this was not the time to go to war; as it would immediately join France and Spain in the common cause against us, whereas at present it might occasion a coldness between those powers to find that one was not ready to assist the other in case of emergency.

Mr. *Dowdeswell* did not think the House ripe to determine the affair at present. Spain had not ratified, and perhaps we might determine a peace to-day to be good, which to-morrow might be war. However, supposing the Spaniards would ratify, yet still as an Address was supposed to be an approbation of the ministers' measures, we ought, step by step, to consider them from the papers delivered in relative to that transaction, and see if we could draw such a conclusion; he therefore moved an amendment, by leaving out all but the first Paragraph.

He said, that as he had moved for the correspondence, he thought (according to the established courtesy of the House) he was intitled to take the lead in any proposition upon what they contained. But since this was not permitted, he moved an amendment: in order that an examination of the facts which appeared in the Correspondence and Declaration, might precede (as in reason it ought) any resolution either of approbation or of censure. That he would read the Resolutions he proposed to move, in case he should carry the Amendment. The facts, he said, were collected from the papers, and stated in the Resolutions in the very words of the Correspondence and Declaration; and if there was the least doubt of his fairness in representing them, he would refer immediately to the papers for his authority. The Resolution contained thirteen heads; viz. "1. That it stands asserted by the marquis de Grimaldi, and uncontradicted by his Majesty's ministers, that the court of Spain had expressed its disapprobation of his Majesty's settlement at Falkland's island; and that there had been several discussions, thereupon, between his Majesty's ministers and the ministers of the said court, of such nature as might give his Majesty's ministers reason to foresee the attack upon that settlement, which was afterwards made by the forces of the crown of Spain. 2. That captain Hunt, commander of one of his Majesty's ships of war, arrived the 3d of June, 1770, and brought information to the commissioners for executing the office of lord high admiral of Great Britain, that a Spanish governor, and commanders of Spanish ships of war, had repeatedly warned his Majesty's forces to quit possession of the said settlement. 3. That his Majesty's ministers made no representations thereupon to the court of Spain; and it is notorious, that no preparations were made for enabling his Majesty to do himself justice, in case advice should come that the said settlement was taken, and the court of Spain refuse his Majesty that satisfaction which he had a right to expect. 4. That the marquis de Grimaldi, in his conference with Mr. Harris on the 25th of September 1770; and the Spanish ambassador, in his proposal, mentioned in lord Weymouth's letter to Mr. Harris, on the 17th of October 1770, did disavow any particular orders given to the governor of Buenos Ayres, to seize by force the said settlement; but did acknowledge, that the said governor had acted under general orders, according to his oath as governor, and according to the established laws of America. 5. That the disavowal of the violent enterprise of the Spaniards, and an engagement for the restitution of the Port and Fort Egmont, have been accepted without such censure or punishment of the governor of Buenos Ayres, as might make it manifest that he did not act under any orders, general or particular, and without such explanation of his general orders, as might sufficiently secure his Majesty's possessions against the like insult and injury in time to come. 6. That the demand of the court of Spain, that his Majesty should disavow the menaces of captain Hunt, which, from the papers laid before this House, is the only apparent cause of protracting the negociation, was unreasonable and unjust. 7. That though the court of Spain did refuse for a long time to do his Majesty that justice which it has since confessed to be due to him, no reparation has been demanded for such protracted refusal; whereby a new injury was received by his Majesty, this country has been put to very great expence in preparations for war, its commerce interrupted, and his Majesty's subjects greatly distressed. 8. That the engagement to restore Port and Fort Egmont is ambiguous, and is short of the first proposal made by the Spanish ambassador to lord Weymouth, which was to restore Falkland's islands. 9. That his Majesty's ministers have not, in the whole negociation, asserted his Majesty's right to Falkland's islands, or any of them, or to

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his settlement at Port and Fort Egmont; but have been so inattentive to that right, as to neglect laying in his Majesty's claim thereto in opposition to the claim of the Catholic king, asserted by the Spanish ambassador in his Declaration. 10. That in the capitulation for Port and Fort Egmont, the Spanish officer insisted on detaining his Majesty's ship of war, called the Favourite, till twenty days after the sailing of one of the frigates under the command of the said officer; and that to prevent the Favourite's sailing, her rudder should be taken off. 11. That the detainer of his Majesty's said ship was an injury for which no reparation has been demanded; and taking the rudder from the said ship was an additional insult, highly injurious to the honour of the British flag, and an ignominy of the grossest nature, for which also no reparation has been demanded. 12. That it does not appear by the papers laid before this House, what was the purport of the language held by the Spanish ambassador, which induced lord Rochford, on the 21st of December 1770, to give orders for the immediate recall of Mr. Harris from Madrid; nor what was the change in the language of the said ambassador, or in any other circumstances; nor what authentic information of the said ambassador's having orders from his court to make new proposals, was received by his Majesty, which caused new orders to be given to Mr. Harris, on the 18th of January 1771, for his immediate return to Madrid. 13. That his Majesty's ministers have neglected to make such timely representations to the court of Spain, as might tend to prevent all occasion of rupture between the two courts; having also neglected to make such early preparations as were proper and necessary for procuring that justice, which his Majesty had a right to expect in case of a refusal of reparation from the court of Spain; having totally omitted many parts in their original demand, essential to the honour of his Majesty's crown, and the rights of his people; particularly having neglected to demand satisfaction for the affront offered to the British flag; having neglected afterwards to require any reparation for the very great expences and distresses incurred by this nation, from the unreasonable delay of the court of Spain in complying with his Majesty's most moderate demands; and having accepted from the Spanish ambassador an engagement to restore Port and Fort Egmont, when the first offer of the court of Spain was to restore Falkland's islands; and having accepted the said engagement, with saving of the question of the pretended right of the crown of Spain to the Falkland's islands, without any counter claim on his Majesty's part; have not supported, as by the duty and trust of their offices they were bound to do, the dignity of his Majesty's crown, nor provided for the security of the rights of his people, but have concluded a convention, inadequate as a reparation of honour, insufficient and insecure with regard to the present interests and future peace of the nation."

Having read these heads, Mr. Dowdeswell observed, that a conclusion might perhaps be drawn from them very much to the condemnation of administration, who had made such a treaty. He then moved his Amendment as before mentioned.

Mr. *Nicholson Calvert:*

Sir; I cannot agree entirely in opinion either with the one side of the House or with the other: I have my own opinion. Gentlemen may say that this declaration shews in me some expectation, dependence, or views, and that I am in want of some provision, and take this opportunity to lay out for an offer; but when I look at my coat I find it a very decent one; I feel myself very warm and comfortable; I never knew the time when I wanted, and I never will want, a spare coat. I have been in the country, and know nothing of what has passed here in town respecting this matter; I give opinions found in my closet and by my fire-side; whether they are approved or disapproved, I care not. I give them independently as I act, and I think I should be unworthy the character of a senator, if I had any other motives for delivering my sentiments.

Having thus declared, Sir, my utter ignorance of every transaction carried on here in town relative to the Spanish convention, and having moreover declared my utter indifference with respect to any approbation or disapprobation attending the free acknowledgment of my opinions, I shall not scruple to pronounce Great Britain the aggressor in the late dispute with Spain. In profound peace, we seize an island which the French, after making an absolute settlement on it, were obliged to relinquish as the actual property of Spain. Gentlemen may talk very vehemently about the caution with which it is neces-

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sary to guard the rights of the British empire; but when did Falkland's island become one of these rights? at what time did we first get possession of this island? If our claims were prior to those of the Spanish nation, why have we not asserted our title earlier; and why did we suffer the French to invade our dominions, or why did we undergo the still greater disgrace of suffering the Spaniards to dislodge them as from a territory of their own, and never once sensibly avow our pretensions or spiritedly call for satisfaction? A conduct of this kind would have been wise, would have been manly, but we pursued no conduct of this kind. On the contrary, Sir, if we have any claims, we suffered them to sleep, till the moment of unsuspecting tranquillity; we then steal a march upon the Spaniards in open violation of treaties, erect a fort, and when the court of Madrid makes a fruitless demand of restitution by her minister, we are to be exceedingly surprised, nay, exceedingly offended at their taking that by force, which we peremptorily refuse to their solicitation.

Sir, if we are to believe the warmest advocates for a war with Spain, Falkland's island has not been in our possession above six or seven years; if we believe these gentlemen moreover, the Spanish minister has presented memorial after memorial upon the subject of the disputed territory, which shews pretty plainly that our title was never acknowledged by the court of Madrid, and that in the cessions made to this kingdom, at the conclusion of the late peace, they never intended to include the island in question: how, then, let me again ask gentlemen, is our title to this contested object made evident? Ancient as our claim is, it was never urged till the year 1765, and then it was neither urged with the appearance of spirit nor the complexion of justice. No, Sir, we sneakingly stole a settlement into the place during a period of profound tranquillity; and now we are to put the Spaniards to the sword for daring to consider it as their property.

A great deal, Sir, has been said about the honour of the nation, and the unrelaxing nicety with which states like individuals should preserve the reputation of their courage. I agree entirely with these casuists for honour in their general principle, but in their particular application of the doctrine I can by no means concur. States like individuals should undoubtedly demand a generous satisfaction, wherever they have received a reasonable cause of offence; but surely the repelling of any injury that may be offered us, gives us no right to act injuriously; we are surely as much bound to be just to others, as spirited with regard to ourselves. Our heroism cannot possibly suffer the smallest diminution by our probity; whereas the want of probity, with all our heroism, will be unable to save us from the contempt, from the detestation of mankind. The gentlemen therefore, who are so anxious to preserve our military character, should pay some little attention to our moral reputation; they should be satisfied before they draw the sword, that what they are to fight for is really their own; before they accuse the Spaniards of haughtiness in daring to violate the sanctity of treaties, they should shew that these treaties have been violated. Let us not be transported by the vehemence of our national pride, beyond the limits of our national honesty. If the Spaniards have been to blame, let their fault be rendered more than conjectural; let it be made incontestibly evident to the world. Till that is done, I shall by no means join the popular opinion, nor till administration shews they have not demanded too much from the kingdom of Spain, shall my suffrage be added to the supporters of the present question.

Colonel *Burgoyne* spoke as follows:

Sir; the present occasion is one of the very few upon which I have thought it necessary to give the reasons for my vote; and I am an anxious solicitor for a short indulgence of the House, to deliver, after the example of the hon. gentleman who spoke last, an opinion of my own; differing from the noble lord who made the motion, upon the propriety of the Address, and though I shall concur in my vote with the right hon. gentleman who moved the amendment, differing with him also upon the measures with which he proposes to pursue it. I confess, Sir, at the same time, I rise under every embarrassment that can affect a man who wishes, and yet finds it difficult, to reconcile to public opinion his several duties to his king, to his country, and to himself.

Sir, at the opening of the debate, I had another difficulty. I lamented, in common I believe with many, that this question came into discussion upon a motion for an Address. Duty and affection to his Majesty, sense of the magnanimity of the royal mind, and reverence for the general virtues that have place there, are sent-

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ments ever uppermost in my heart; and it is extremely irksome to me to avoid any occasion to give them expression. But, Sir, when such expressions are implicated and interwoven with, and inseparable from matter to which my mind cannot assent, I think I should ill perform my duty to my country, if I considered an Address in any other light than as a mode to convey the sense of parliament upon a measure of state.

Sir, the question has been stated on each side the House as a question of honour. It is then for the feelings, not the talents of men to decide it. I mean not to tax the honour of any man who had a share in the negociation; I am particularly sensible how eminently the noble lords who made and seconded the motion possess that principle; but still, Sir, it is a principle that cannot be defined by any precise rule or line. It strikes, like beauty, in different degrees upon different tempers, habits, and conceptions; and I must be allowed, without offence, to judge of it according to the notions which nature and education have given me.

To consider it then, Sir, upon this principle, all arguments upon the right of possession are foreign and immaterial to the subject: I must also lay aside all considerations of the expediency of peace; for no man will deny that, upon the precepts of honour, to perish at once is preferable to enduring ignominious existence.

The question thus divested of superfluous matter appears to me thus: had the Declaration come immediately upon the demand—accompanied with the disgrace of the governor Buccarelli—not an enforced disgrace, which it would have been ungenerous in this country to ask, and abject in Spain to grant, but such an one as bore evident marks of sincerity, and must naturally have followed a real disobedience of order—I should then have thought it, and barely have thought it, admissible; had it come after reprisal made, and a just revenge taken by arms in the face of Europe, I should then have thought it adequate: but it comes now after a long delay of many months, evidently induced by the political unforeseen circumstances of the time, and accompanied with a reservation which commits the right upon the denial of which the affront was founded—Under these circumstances, I cannot reconcile the part we have acted to any ideas I have ever conceived of national dignity, or public honour.

A suspension of satisfaction is an increase of injury: every procrastination, the accession of every ignominious hour corrodes and spreads the wound of honour; and I hold as a just application of this maxim, that, according to the degree in which the dispute with Spain was protracted, we were intitled to make new claims, and to insist upon more ample reparation—reparation for expences incurred; reparation for the suffering of national character.—Spain gave fifteen minutes to an officer of Great Britain to evacuate a garrison. Great Britain slept four months upon the insult.

Sir, a right hon. gentleman in the beginning of the debate drew some inferences from the convention in 1739. I beg leave to recur to the same convention for one remark; though that convention was grounded upon a recent injury: it is observable in the preamble, or the first article, I do not exactly remember which, that it was thought necessary, in order to establish a permanent agreement, to consider the disputes between the two nations retrospectively to the most remote causes. Sir, I wish it had been found consistent with policy and propriety to have followed that plan now. I am aware of the argument that may be brought against introducing collateral matter in treating for a prompt reparation of a particular injury; but yet I cannot help thinking, that the behaviour of Spain gave us title to hold language, put into proper terms of negociation, to this effect:—We have reason to suspect your faith—If you are really sincere to maintain the peace—if you really hold that reciprocity of sentiment you profess, consent with us to remove absolutely for ever (those are the words of the convention of 1739) all cause of future complaint. There is a cause that lies at the heart of every Briton—the Manilla ransom—restore your faith—discharge that debt—we demand it as a pledge of your sincerity, accept the proposal as a proof of ours.—Is it sure, Sir, that Spain would not have complied? Is there not a spark of honour remaining in the councils of Spain to induce her to redeem the lost opinion of mankind? Good God! Sir, while Spain was undegenerate, and old Castilian honour survived, Spain would have adored the principle that dictated the Manilla capitulation—She would have raised statues to an enemy under whose banners compassion restrained the rights of conquest, and interest yielded to humanity.

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But, Sir, it is not only the interest of Great Britain, the interest of human nature is concerned in the discharge of the Manilla ransom. The subjects of Spain will one day execrate that fatal policy of their court. The day will come, when British sailors and soldiers will exact a severe retaliation for that prostitution of public faith; and those who would wish to emulate the virtues of admiral Cornish and sir W. Draper, will find themselves unwillingly justified in pursuing the most opposite conduct.

But, Sir, to admit for sake of argument, I do it no otherwise, that the demand of the Manilla ransom was not compatible with the late negociation; I still maintain, that it served as just argument against the credit of Spain, and intitled us to demand hostages for the performance of any contract she made. It gave us warrant to treat Spanish honour as visionary security. When every breast in Spain must have felt for the redemption of the lives and fortunes of fellow subjects, upon a disgraceful frugality, she disavowed the governor of Manilla; when, not compelled by Great Britain, but by the obstinacy or disability of her ally, it became necessary to retard the blow levelled at this country, she disavows the governor of Buenos Ayres; when upon a new change of politics, perhaps on the morrow of your disarming, she shall think proper again to take the vanguard of the family compact, and renew the blow, she will disavow the signature of her ambassador; and leave to Great Britain the inglorious reflection and repentance of a fruitless expence, an ineffectual armament, and illusory compromise.

Sir, I have troubled the House too long, but I cannot sit down without one remark. It has been the fashion to maintain, I have seen it in print, and I have heard it in conversation, that military men were prejudiced judges in questions of this nature, for that war was their trade, their interest, and their delight. Sir, I disdain the idea, and renounce it in the name of my profession. The man who would wantonly promote bloodshed, who upon private views of advantage or ambition would involve Europe in the calamities of war, would be a monster of ferocity, a disgrace to his profession, to his country, and to human nature. But, Sir, there are motives upon which a soldier may wish for war: they are, a sense of satisfaction due for an injury received—a desire to make a return to our country, for the honours and rewards we receive at her hands—a zeal to be the forward instruments to vindicate the honour of the crown, and the rights of the people of Great Britain.

Upon these motives, Sir, and upon no other, disobliging perhaps many persons here, recommending myself to none, seeking no approbation but that of my own mind, I must, from the most compulsive dictates there, give my assent to the amendment of the right hon. gentleman, as it separates the sentiments of duty and gratitude to the king, which I am most earnest to manifest, from those which regard the act of his council, and which in this instance I cannot approve.

Admiral *Keppel* defended the British flag, and particularly spoke of the unpardonable insult offered to the national honour in taking off the rudder of an English man of war.

Captain *Walsingham* said, if he had commanded that ship, and Buccarelli himself had attempted to take off her rudder, he would have knocked off his head.

Governor *Pownall*:*

Sir; as the line of my services under his late majesty doth naturally lead me to some knowledge of this kind of business, which is the subject of your present consideration; as I have taken some pains to collect into a series, the scattered and unconnected facts which respect the negociation; I will venture to trouble the House with my sentiments upon it, both as to fact and opinion.

The consideration of the matters contained in the papers laid before you, has led a noble lord to move an Address of thanks to his Majesty, for the communication which he has been pleased to make of these papers; and to testify our sincere satisfaction in the accommodation which his Majesty has obtained, by the disavowal made, and restitution promised, as those two articles stand in the Declaration of prince Masserano. The noble lord, in stating the grounds of his motion, has referred very little to the papers which purport to give an account of the negociation: and, indeed, I do not wonder at it, when I see how imperfect, how defalcated an ac-

* From a pamphlet, published in 1771, entitled, "Two Speeches of an Honourable Gentleman on the late Negotiation and Convention with Spain."

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count they do give of that matter. He has grounded the reason of this motion on the matter of the convention, as contained in the declaration and acceptance. He has argued solely on the conclusion, as it stands in the convention; not as his accurate reasoning would have deduced it from the preliminaries contained in the negociation: but taking it as he finds it, he thinks the disavowal full up to the reparation demanded; the reparation adequate to the injury received; the satisfaction full to the point of honour. This point secured, he thinks that the examination of the question of war or peace ought to turn rather upon the point of prudence as to our situation in Europe, than to be urged from motives of ambition in America. In describing the state of this country, he has given a detail too true, I am afraid, and too accurate, as to its interior circumstances: and no minister, long conversant in public affairs, could have given a more extensive or a more thoroughly considered view of our foreign relations and connections. But I apprehend that the question must turn upon other points.

A right hon. gentleman (Mr. Dowdeswell) has pursued a very different line in considering this matter. He has shewn, that if this accommodation or convention (or by whatever other name you shall be pleased to call it) were in itself never so just and honourable; yet that the process of it is not, as yet, in that stage, which would, with any propriety, justify this House in going into any decisive opinion upon it; much less in acceding to any testimony of our sincere satisfaction in it. This point, I do flatter myself, I shall be able to give full conviction of, when I come to state the real history of the negociation by which it hath been conducted.

The consideration of this matter not being in a state of perfection, on account of its not being brought as yet to a conclusion, is stated by the right hon. gentleman, as the grounds and reason why he would have moved the previous question upon this motion for an Address; had it not been, that the moving of a previous question might be invidiously construed into a wish, or an intention, of avoiding the main question of approbation or disapprobation. He has, therefore, joined issue with the noble lord upon the main question; and has stated distinctly, proposition by proposition, upon each stage of this business, matters of fact so strongly confirmed by the evidence of the papers (broken into fragments, as that evidence now lies upon your table), that not one single circumstance has been denied; not one single circumstance can be denied. He calls upon the House to go into an accurate, attentive discussion of these facts, before it comes into matter of opinion upon the conclusion. He marks openly, fairly, and with candour, the point to which he thinks this inquiry must lead. If the evidence supports these facts, he thinks that the House, instead of feeling a sincere satisfaction upon this business, must be impressed with sentiments that will prompt censure; and hath opened to you the censure which he should move for. He hath avoided, however, to come to any other conclusion at present, than that of moving this House to leave out all the latter part of the Address proposed, which goes to an opinion of the convention, prior to an examination of the facts of the negociation. He wishes to thank his Majesty, for the gracious communication which he has been pleased to make of the matter of this business; and to make a due and grateful return by giving to his Majesty the faithful advice of his Commons, upon a diligent, dispassionate, and accurate examination of the situation in which it stands.

As I had the honour to second this motion, I shall endeavour to give such reasons (in a general line of supporting it) as may obviate every objection that has been attempted to be made to it. In stating the facts, I shall first mark those which relate to the act of hostility, the cause of this negociation; next those of the negociation itself; and, lastly, shall state these two points on which the convention turned, the disavowal and the restitution. His Majesty had been pleased to exert a right, by taking possession of Falkland's island, followed by an exercise of sovereignty in the establishment of a fort. By the exertion of this right, and the affixing the sovereignty, the honour of the imperial crown of Great Britain was committed. On occupying this right, by the settlement of British subjects, the rights of the British nation were committed. Let us see, then, how they have been treated.

A Spanish governor, holding delegated powers under a sovereign in league and amity with Great Britain, resists this right by force. The rights of treaty, and good faith in the execution of those treaties, require that he should have referred the

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matter to his sovereign; but, under a claim of right, established on pretended laws of America, paramount to treaty and good faith, he commences hostilities; drives the British subject from his possessions, and accompanies his act of hostility with a wanton ignominious insult on the British flag, which no circumstances could justify, and which carries the insult home to the sovereignty itself. He treats the British subjects, exerting this right by commission, and under authority of the crown of Great Britain, as doing an act of confessed invasion, as convicted interlopers. By this act of hostility, thus exerted, the honour of his Majesty's crown, and the security of the rights of his people, become indeed deeply affected. This was his Majesty's just sense of it: he demanded immediate reparation. The conduct of seeing this demand carried to its effect was committed to his ministers; and the business of this day is, to inquire how they have executed this most important commission, so essential to the honour of the crown, and to the rights of the people.

In considering this, I shall now mark the facts which relate to the negociation itself. It commenced about the 12th of September. His Majesty gave orders for the making a demand, that the court of Spain should disavow the act of its governor; and that it should restore every thing to the same circumstances in which they were before the act of hostility was committed.

This negociation trained on to the 15th of December, under propositions made by the court of Spain, always inadequate, and mostly inadmissible. Although we are told that Spain shewed from the beginning a disposition to grant every thing which we could, in honour and justice, demand; and that there remained no difficulties, but matter of punctilio only: yet, these mere matters of punctilio had such powerful effect on the English ministry, that the negociation between his Majesty's Secretary of State and the Spanish embassador was frequently interrupted and broken off. It was, from time to time, indeed picked up again, and continued, by an extra-official ministerial negociation between a great minister and the French agent: but such was the crisis to which this matter of punctilio wrought itself, that on the 15th of December, his Majesty's Secretary of State did not think he could safely remain in office conducting that negociation, unless it was brought to some point, precise and determinate. He therefore, on that day, made four propositions to the cabinet. These propositions were rejected; and on the 18th he found it necessary to resign his office. What passed between that day and the 21st, which induced the cabinet to re-consider those propositions, the papers on your table do not inform you: and yet it is certain that something very material must have passed, because, on that day, the 21st, one of these propositions was adopted.—Mr. Harris, your minister at Madrid, was recalled. It is publicly reported, as a matter of notoriety, that a letter of prince Masserano, conceived in very strong and decisive terms, made it necessary to bring on this matter again, and brought it to this crisis. Whatever was the cause, the letter of lord Rochford, of this date, fixes this fact. Thus this matter, which is represented to us as having no difficulties but in mere matters of form, occasions a secretary of state to retire from office, and brings the British court to an open rupture, actually declared by the recall of its minister. The fact, which the House here will mark, is, that so far as respects Great Britain, war was determined on the 21st of December.

On the 27th of December, the king of Spain (as the marquis Grimaldi had informed Mr. Harris he would do) called a grand council, to deliberate on the matter in negociation. At that council, an ultimate proposition, of a tenor and spirit which had already been refused by the court of London, was fixed upon; and the final resolution of the council was, that if that ultimatum was rejected, war must be the immediate result. The House will here remark, that on the part of Spain also, war was determined upon the 27th of December.

All negociation between those ministers of Great Britain and Spain, who were commissioned to treat, was broken off. The principals in the quarrel had determined to appeal to arms: whence then came this truce? Here it will be necessary to mark the interposition of his most Christian majesty: but preparatory to this, it will be proper to observe how the kindly ground was first laid in England. A secret extra-official line of negociation has been referred to in this narrative. The thread of this was never broken by punctilios. It was a preventer brace to the main line of negociation. When that was broken on the 21st of December, this

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preventer held on by the confidential extra-official negociation; and terms of accommodation were on the 22d treated of, between a great minister and the French agent. This conversation indeed was not perfectly confidential; for although it purported to be a free communication of expedients for accommodation, this great man did not inform the French agent, that Mr. Harris was recalled. If this circumstance should be denied, I beg to recall to that great man's memory, the very strong terms of reproach which were used by this French agent, when on the 4th of January (by lord Rochford's acquainting prince Masserano of the recall) this agent came to the knowledge of the fact.

This kindly ground lying thus in England, his most Christian majesty, on the 24th of December, wrote a letter to the king of Spain, informing him of his intentions to dismiss his minister, the duke de Choiseul: he explained to him the reasons, laid before him the internal state of the kingdom, and marked to him the necessity of peace for the present.

The dispatches of the king of Spain, which were sent off in consequence of the grand council I have mentioned, arrived at Paris the 2d of January; and the duke de Choiseul being then dismissed, these dispatches came directly into the French king's own hands. He saw that the ultimatum contained in them was of a nature that would not be received or complied with by the court of London, and that it could lead only to an open rupture. He therefore did not forward these dispatches; but, retaining them, wrote back to the king of Spain, stating to him the necessity of peace, from the impossibility of France entering at present into war, in aid and assistance to him. In answer to which, the king of Spain referred himself wholly to the king of France; put his honour into his hands; and gave him full powers to conclude for him: desiring him to act exactly as if it was his own case, only to remember that he had the charge of the Catholic king's honour, which was dearer to him than all his dominions, and even than life itself.

His Christian majesty being thus vested with full powers from Spain, and matters being thus prepared in England, he forms the terms of the conclusion; and sends them hither to his minister, to be communicated to the Spanish minister: but sends, at the same time, to M. de Guisne a letter, ordering him to adhere strictly and closely to the family compact; and if the Spanish minister should be recalled, to come away himself without delay. This letter was an ostensible one, which M. de Guisne had private orders to shew to our ministry previous to communicating the terms of the accommodation.

These dispatches arrived on the 14th of January. Prince Masserano, notwithstanding every deference to, and the most profound respect and reverence for, his Christian majesty, yet finds himself in a predicament of resisting those directions of the king of France: first, as they were contrary to, or at least incongruous with, the prior instructions which he had received from his own court: next, as he might have reason to apprehend that, notwithstanding the full powers which France had to conclude this matter, these full powers might be revoked by the Spanish court, when they came to be informed of the recall of Mr. Harris: and lastly, that as the negotiation between him and the British Secretary of State was broken off, and Mr. Harris actually recalled, he could not negociate upon any terms.

These difficulties lasted from this time to the 18th. On that day (the 18th) our ministry determined to give him satisfaction by remanding Mr. Harris back to Madrid. For which purpose, on that day, four or five messengers were sent different ways in order to meet him. Lord Rochford's letter of that date gives as a reason for this, that his Majesty, from the information he had received, had reason to believe that prince Masserano had orders to make fresh proposals. Surely this was but a poor reason for making so essential an alteration in the system of our business, merely on a suggestion that prince Masserano (who, for four months together, had been making propositions always inadequate, and mostly inadmissible) had now fresh orders to make some other propositions. But the information which our court had, gave them sufficient intelligence what those propositions were; and if they had been pleased to lay that information before this House, this House would have seen from whence it came: but that part of information as to this business is not laid before us.

As to the other difficulties of prince Masserano, they are said to have been adjusted by the French minister's giving him in writing, assurance of his Christian majesty's having full powers to conclude this business; and also a justification or indem-

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nification for his doing it, under those directions. Upon this ground the matter was concluded on the 22nd of January; the very day that parliament met, and about an hour before it did meet. Had the signing of this matter been deferred two or three days, that is, till Friday the 25th, it could not have been signed at all; for on that day prince Masserano received his recall, ordering him to come away without taking leave.

Now, Sir, is the business of this accommodation signed, not by Spanish orders, but under French directions; signed at a time when the powers given for concluding this matter stand actually revoked; when it is not known whether this conclusion will be adopted and confirmed by the king of Spain; at a time when the Spanish ambassador stands recalled, and does no more go to court. Is this a stage of the business, either for this House to go into an approbation of it, or to go up to his Majesty with thanks for it, as a matter concluded? And if it should not be accepted by Spain, would even ministry itself wish to make so ridiculous a figure as they must do, in having induced parliament to approve a measure the very contrary of what it may turn out in the event?

It will be here observed, that this business has been conducted in two different lines of negociation; the one diplomatic, responsible, upon paper; the other ministerial, irresponsible, on parole: the one conducted officially on the part of his Majesty's secretary of state, by a one uniform, unremitted demand (such as it was), urged with spirit, and broken off with spirit: the other, by a great man, in an extra-official way, picking up a broken thread of negociation, and holding on a kind of spliced and knotted treaty, by accommodation with a French agent. Although the king of France is not admitted, on either side, as the mediator avowed; although the minister of this country did publicly disavow all mediation; yet it does appear, that the court of France was permitted to interpose: and having, as it were, put both England and Spain in arrest, did finally dictate the terms of their accommodation.

We are told that this negociation was, as all demands of honour should be, simple and peremptory; that it consisted but of two words invariably adhered to, 'disavow and restore.' Let us therefore consider it on these two points.

It disavows indeed that this particular expedition was undertaken and carried on under any especial orders for it; but at the same time says, that the Spanish governor was justifiable, and does justify him, in having undertaken this expedition, by virtue of the powers of his commission, his general instructions, and the established laws of America. Such disavowal, accompanied with a claim of right to justify the governor, in having commenced hostilities under the circumstances and principles referred to, is an insult instead of a disavowal. The claim of any such right, on any such principles, is contrary to every treaty by which we stand in league and amity with the court of Spain; is directly contrary to that good faith with which his Majesty and his ancestors have ever executed those treaties. By those treaties, the sovereigns at peace with each other, must be responsible that those who act under their delegated powers shall observe that peace: and it is expressly stipulated, that they shall not commence hostilities without reference to their sovereigns, and without receiving their especial commands thereupon. If any of his Britannic majesty's governors in America had committed any act of hostility of this kind, that act would have been criminal, as not justifiable nor to be justified by their powers of government; and as being directly contrary to their instructions. Those charters in which delegated powers of government are granted, have all uniformly a clause restraining those who live and act under those powers, from doing any act of hostility against any prince or state, or their subjects, who are in league and amity with the crown of Great Britain, under pain of being put out of his Majesty's protection. Those who act with powers of government immediately under his Majesty's commission, hold those powers restricted by special instructions to the same point. His Majesty's commanders, in the very case now in event, act under special instructions not to proceed to acts of hostility; but, warning off any persons whom they may find on the island, they are ordered to refer the matter to his Majesty, for his special directions therein. The Spanish governor rejects all terms of reference, commences hostilities, and stands justified by his court. That treaty which, in the course of its negociation, recognizes this justification, leads to matters of the utmost importance and danger. This is a point which will require the distinct consideration of this

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House; and I hope, in a few days, to move them thereto.

As to the restitution, it is, in the first place, less than prince Masserano first offered. He offered the restitution of Falkland's island. Our ministers have accepted the restitution of Fort and Port Egmont only. It is, in the second place, a restitution of less than they demanded. They demanded the restitution of every thing, precisely in the same circumstances in which they stood before the act of hostility. Before the act of hostility, his Majesty had exerted a right of possession to the whole island; and affixed the sovereignty of the crown of Great Britain to it. Neither the possession nor sovereignty of the island is restored. The port and fort only, by exclusive, defined words, are restored—the sovereignty lies buried in disgrace—the exertion of our right is extinguished—and we are come now to the question of right—the points of vacancy and occupancy, possession and sovereignty being abandoned. This kind of exclusive restitution comes from the same mould, and is of the same spirit, as the cession of Annapolis Royal in Acadia; which was supposed to exclude the country in which it stood, and to which it affixed the mark of sovereignty. This restitution purports the same, and will have the same effect as that, which did on this very point mix in with the causes of future war; and this will certainly lead to the same unhappy end.

I have now gone through my observations, and have, I think, fully proved, that this business ends in an inconclusive Spanish convention, dictated by French arbitration; in which the disavowal becomes an additional injury; and the restitution a snare, which lays a train for future war: and therefore I must give my voice for the motion which proposes to leave out all that part of the Address that goes to the giving of any approbation to the late negociation, until the matters, on which it stands, shall be more fully discussed; until it be known, what shall be the event of it in fact; and until it shall be manifest in its effect, that it will justify that satisfaction which we are taught to feel, and are called upon to express.

At length the House divided upon the question: 271 were for the Address, and 157 against it.

The following is a List of the 157 Gentlemen, and the two Tellers, who voted against the Convention with Spain.

Allen, Ben.
Anderson, Cha.
Astley, sir Edw.
Aubrey, John
Aufrere, George
Baker, Wm.
Barré, Isaac
Barrow, Cha.
Bayley, Nathan
Beauclerk, Aubrey
Beckford, Peter
Bentinck, lord Edw.
Bertie, Peregrine
Bethel, Hugh
Bernard, sir Rob.
Bouverie, hon. Edw.
Brett, sir Piercy
Bullock, Joseph
Burgoyne, John
Burke, Edmund
Burke, William
Byng, George
Calcraft, John
Carnac, John
Cavendish, lord Geo.
Cavendish, lord Fred.
Cavendish, lord John
Cavendish, Henry
Chomley, Nathan.
Clarke, G. B.
Clayton, sir Rob.
Clive, lord
Clive, George
Codrington, sir Wm.
Colebrooke, sir Geo.
Conolly, Tho.
Cornwall, C. W.
Coxe, R. Hippisley
Crosby, alderman
Curwen, Henry
Damer, hon. John
Damer, hon. George
Damer, John
Davers, sir Charles
Dawkins, Henry
Dempster, George
Donegal, earl of
Dowdeswell, rt. h. W.
Drake, Wm. sen.
Drake, Wm. jun.
Dummer, Tho.
Dunlze, John
Dunning, John
Durrant, Tho.
Feathe.stonehaugh, sir Mat.
Finch, Savile
Fitzmaurice, Tho.
Fletcher, Henry
Foley, Tho. sen.
Foley, Edw.
Forrester, Geo.
Frankland, sir Tho.
Frankland, Wm.
Fuller, Rich.
Glynn, John
Graves, Wm.
Germaine, lord Geo.
Gregory, Rob.
Grenville, Henry
Grenville, James
Grey, Booth
Griffin, sir John G.
Grove, Wm. C.
Guise, sir Wm.
Grosvenor, Tho.
Halsey, Tho.
Hamilton, lord A.
Hamilton, Wm. G.
Hanbury, John
Hotham, Bt.
Hunt, Geo.
Hussey, Wm.
Irnham, lord
Jennings, Philip
Keck, Anth. James
Keppel, hon. Aug.
Keppel, hon. Wm.
Leigh, Peter
Long, sir James
Ludlow, earl
Luther, John
Mackworth, Herbert
Manners, John
Martin, Joseph
Marsham, Cha.
Mauger, Joshua
Mawbey, sir Joseph
Meredith, sir Wm.
Molesworth, sir John
Montagu, Frederick
Mostyn, sir Roger
Musgrave, Geo.
Noel, Tho.
Norris, John
Oliver, Richard
Owen, Hugh
Page, Francis
Palk, Robert
Palmer, sir John
Parker, John
Pennant, Richard
Pennyman, sir James
Penruddock, Cha.
Phipps, Const.
Plumer, William
Popham, Edward
Popham, Alexander
Powlet, George
Pownall, Thomas
Pratt, Robert
Price, Chace
Radcliffe, John
Rolle, Denys
Rous, sir John
Rushout, John
St. Aubyn, sir John
St, Leger, Anthony

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Salt, Samuel	Townsend, James
Savile, sir Geo.	Trecothick, Barlow
Scawen, James	Turner, Charles
Scudamore, John	Verney, earl
Sharpe, Wm. Faue	Vincent, sir Francis
Smith, John	Walter, John
Standert, Fred.	Wenman, viscount
Strachey, Henry	Whichcot, Tho.
Sturt, Humphrey	Whitworth, Richard
Sutton, lord Geo.	Williams, sir H.
Sutton, James	Willoughby, Tho.
Taylor, Robert P.	Wray, sir C.
Tempest, John	Yonge, sir Geo.
Thompson, B.	TELLERS.
Thoroton, Tho.	Seymour, H.
Townshend, hon. T.	Walsingham, Boyle
Townshend, rt. h. T.	

Debate in the Lords on the Address approving of the Spanish Declaration respecting the Seizure of Falkland's Island.] Feb. 14. The order of the day being read, for taking into consideration the Declaration signed and delivered by prince de Masserano, ambassador extraordinary from his Catholic majesty, the 22nd of January, 1771; and also, copy of the Acceptance, by the earl of Rochford, in his Majesty's name, the 22d of January, 1771, of the Spanish ambassador's Declaration of the same date; and also copies and extracts of letters, &c. relating to the same:

The Duke of *Newcastle* moved, "That an humble Address be presented to his Majesty, to return his Majesty our thanks for his gracious communication to this House, of the Declaration signed by the ambassador of his Catholic majesty, which his Majesty has been pleased to accept:

"To offer to his Majesty our most sincere acknowledgments for having supported the honour of the crown of Great Britain, by a firm and unvaried adherence to his just demand of satisfaction for the injury received by the violent enterprize against Falkland's island, by which steady and uniform conduct, his Majesty has obtained from the king of Spain, an explicit disavowal of that expedition, together with an engagement to restore things to the precise situation in which they were before the late unjustifiable attempt:

"To express our satisfaction on the prospect of the blessing of peace being secured to us, as we have no reason to doubt the good faith of his Catholic majesty in the performance of his engagements; and to declare our grateful sense of his Majesty's paternal care of his people, in not too hastily engaging them in the hazards and burthens of war:

"To assure his Majesty of our zeal and readiness, on all occasions, to exert our utmost efforts to enable his Majesty to carry into execution such measures as shall be necessary for the support of the honour and dignity of his crown."

Then the duke of Manchester proposed an Amendment to be made to the said motion, by leaving out the words from the end of the first paragraph thereof to the end of the motion.

Which being objected to, after long debate, the question was put thereupon. It was resolved in the negative. Contents 35; Proxies 3; total 38. Not Contents 92; Proxies 15; total 107.

Protest against the Address approving of the Spanish Declaration respecting the Seizure of Falkland's Island.] Upon which the lords in the minority entered the following Protest;

"Dissentient,

"1. Because it is highly unsuitable to the wisdom and gravity of this House, and to the respect which we owe to his Majesty and ourselves, to carry up to the throne an Address, approving the acceptance of an imperfect instrument, which has neither been previously authorised by any special full powers produced by the Spanish minister, nor been as yet ratified by the king of Spain. If the ratification on the part of Spain should be refused, the Address of this House will appear no better than an act of precipitate adulation to ministers; which will justly expose the peerage of the kingdom to the indignation of their country and to the derision of all Europe.

"2. Because it is a direct insult on the feelings and understanding of the people of Great Britain to approve this Declaration and Acceptance, as a means of securing our own and the general tranquillity, whilst the greatest preparations for war are making, both by sea and land, and whilst the practice of pressing is continued, as in times of the most urgent necessity, to the extreme inconvenience of trade and commerce; and with the greatest hardships to one of the most meritorious and useful orders of his Majesty's subjects.

"3. Because the refusing to put the questions to the judges upon points of law, very essentially affecting this great question, and the refusing to address his Majesty to give orders for laying before this House the instructions relating to Falkland's Islands, given to the commanders of

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his Majesty's ships employed there, is depriving us of such lights as seemed highly proper for us on this occasion.

"4. Because, from the Declaration and Correspondence laid before us, we are of opinion that the ministers merit the censure of this House, rather than any degree of commendation, on account of several improper acts, and equally improper omissions from the beginning to the close of this transaction. For it is asserted by the Spanish minister, and stands uncontradicted by ours, that several discussions had passed between the ministers of the two courts, upon the subject of Falkland's Islands, which might give the British ministers reason to foresee the attack upon that settlement that was afterwards made by the forces of Spain. Captain Hunt also arriving from thence so early as the 3d of June last, did advertise the ministers of repeated warnings and menaces made by Spanish governors and commanders of ships of war; yet so obstinately negligent and supine were his Majesty's ministers, and so far from the vigilance and activity required by the trust and duty of their offices, that they did not even so much as make a single representation to the court of Madrid, which, if they had done, the injury itself might have been prevented, or at least so speedily repaired, as to render unnecessary the enormous expences to which this nation has been compelled, by waiting until the blow had been actually struck, and the news of so signal an insult to the crown of Great Britain had arrived in Europe. To this wilful, and therefore culpable neglect of representation to the court of Spain, was added another neglect; a neglect of such timely preparation for putting this nation in such a state of defence as the menacing appearances on the part of Spain, and the critical condition of Europe required. These preparations, had they been undertaken early, would have been executed with more effect and less expence; would have been far less distressing to our trade, and to our seamen; would have authorised us in the beginning to have demanded, and would in all probability have induced Spain to consent to an immediate, perfect, and equitable settlement of all the points in discussion between the two crowns; but all preparation having been neglected, the national safety was left depending rather upon accidental alterations in the internal circumstances of our neighbours, than in the proper and natural strength of the kingdom; and this negligence was highly aggravated by the refusal of administration to consent to an address proposed by a noble lord, in this House, last sessions, for a moderate and gradual augmentation of our naval forces.

"5. Because the negociation, entered into much too late, was, from the commencement, conducted upon principles as disadvantageous to the wisdom of our public counsels, as it was finally concluded in a manner disgraceful to the honour of the crown of Great Britain; for it appears, that the court of Madrid did disavow the act of hostility as proceeding from particular instructions, but justified it under her general instructions to her governors; under the oath by them taken, and under the established laws of America. This general order was never disavowed nor explained; nor was any disavowal or explanation thereof ever demanded by our ministers; and we apprehend that this justification of an act of violence under general orders, established laws, and oaths of office, to be far more dangerous and injurious to this kingdom, than the particular enterprise which has been disavowed, as it evidently supposes that the governors of the Spanish American provinces, are not only authorised, but required without any particular instructions to raise great forces by sea and land, and to invade his Majesty's possessions in that part of the world, in the midst of profound peace.

"6. Because this power, so unprecedented and alarming, under which the Spanish governor was justified by his court, rendered it the duty of our ministers to insist upon some censure or punishment upon that governor, in order to demonstrate the sincerity of the court of Madrid, and of her desire to preserve peace by putting at least some check upon those exorbitant powers asserted by the court of Spain to be given to her governors. But although our ministers were authorised not only by the acknowledged principles of the law of nations to call for such censure or punishment, but also by the express provision of the seventeenth article of the treaty of Utrecht, yet they have thought fit to observe a profound silence on this necessary article of public reparation. If it were thought that any circumstances appeared in the particular case of the governor to make an abatement or pardon of the punishment adviseable, that abatement or pardon ought to have been the effect of his Majesty's cle-

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mency, and not an impunity to him, arising from the ignorance of our ministers, in the first principles of public law, or their negligence or pusillanimity in asserting them.

"7. Because nothing has been had or demanded as a reparation in damage for the enormous expence and other inconveniences arising from the confessed and unprovoked violence of the Spanish forces in the enterprise against Falkland's islands, and the long subsequent delay of justice; it was not necessary to this demand, that it should be made in any improper or offensive language, but in that stile of accommodation which has ever been used by able negociators.

"8. Because an unparalleled and most audacious insult has been offered to the honour of the British flag, by the detension of a ship of war of his Majesty's for 20 days, after the surrender of Port Egmont, and by the indignity of forcibly taking away her rudder; this act could not be supported upon any idea of being necessary to the reduction of the fort, nor was any such necessity pretended. No reparation in honour has been demanded for this wanton insult, by which his Majesty's reign is rendered the unhappy æra in which the honour of the British flag has suffered the first stain with entire impunity.

"9. Because the Spanish Declaration, which our ministers have advised his Majesty to accept, does in general words imply his Majesty's disavowal of some acts on his part, tending to disturb the good correspondence of the two courts; when it is notorious, that no act of violence whatsoever had been committed on the part of Great Britain. By this disavowal of some implied aggression in the very Declaration, pretended to be made for reparation of the injured dignity of Great Britain, his Majesty is made to admit a supposition contrary to truth, and injurious to the justice and honour of his crown.

"10. Because in the said Declaration, the restitution is confined to Port Egmont, when Spain herself originally offered to cede Falkland's island; it is known that she made her forcible attack on pretence of title to the whole; and the restitution ought, therefore, not to have been confined to a part only, nor can any reason be assigned, why the restitution ought to have been made in narrower or more ambiguous words than the claims of Spain, on which her act of violence was grounded, and her offers of restitution originally made.

"11. Because the Declaration, by which his Majesty is to obtain possession of Port Egmont, contains a reservation or condition of the question of a claim of prior right of sovereignty in the Catholic king to the whole of Falkland's islands, being the first time such a claim has ever authentically appeared in any public instrument, jointly concluded on between the two courts. No explanation of the principles of this claim has been required, although there is just reason to believe that these principles will equally extend to restrain the liberty, and confine the extent of British navigation. No counter claim has been made on the part of his Majesty to the right of sovereignty, in any part of the said island ceded to him; any assertion whatsoever, of his Majesty's right of sovereignty, has been studiously avoided, from the beginning to the accomplishment of this unhappy transaction; which, after the expence of millions, settles no contest, asserts no right, exacts no reparation, affords no security, but stands as a monument of reproach to the wisdom of the national councils, of dishonour to the essential dignity of his Majesty's crown, and of disgrace to the hitherto untainted honour of the British flag.

"After having given these reasons, founded on the facts which appeared from the papers, we think it necessary here to disclaim an invidious and injurious imputation, substituted in the place of fair argument, that they who will not approve of this convention, are for precipitating their country into the calamities of war: we are as far from the design, and we trust much farther from the act of kindling the flame of war, than those who have advised his Majesty to accept of the Declaration of the Spanish embassador. We have never entertained the least thought of invalidating this public act; but if ministers may not be censured, or even punished, for treaties which, though valid, are injurious to the national interest and honour, without a supposition of the breach of public faith in this House, that should censure or punish, or of a breach of the laws of humanity in those who propose such censure or punishment, the use of the Peers, as a controul on ministers, and as the best, as well as highest, council of the crown, will be rendered of no avail.

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We have no doubt but a Declaration more adequate to our just pretensions, and to the dignity of the crown, might have been obtained without the effusion of blood; not only from the favourable circumstances of the conjuncture, but because our just demands were no more than any sovereign power, who had injured another through inadvertence, or mistake, ought, even from regard to its own honour, to have granted: and we are satisfied, that the obtaining such terms would have been the only sure means of establishing a lasting and honourable peace. *(Signed)*

Richmond, Bolton, Manchester, Tankerville, Chatham, Wycombe, Craven, Boyle, Devonshire, Audley, King, Torrington, Milton, Abergavenny, Fitzwilliam, Ponsonby, Scarborough, Archer."

" Dissentient'

" Because, though the disavowal may be considered as humiliating to the court of Spain, the Declaration and Acceptance, under the reservation of the question of prior right, do not, in my opinion, after the heavy expences incurred, either convey a satisfaction adequate to the insult on the honour of Great Britain, or afford any reasonable grounds to believe that peace, on terms of honour, can be lasting.

" RADNOR."

Debate on Governor Pownall's Motion respecting the late Negociation with Spain, concerning Falkland's Island.] March 5. Governor Pownall brought forward the consideration of the consequences of the late negociation and treaty with Spain. He spoke as follows: *

As his Majesty has been pleased to lay before this House the king of Spain's recognition of the Convention signed at London, containing his orders for the execution thereof, by the delivery of Port and Fort Egmont, I must beg that that paper be read, after first reading lord Weymouth's letter to Mr. Harris, dated Oct. 17, 1770.—The papers being read, he continued,

As the matter of the late negociation could not be said to be complete until this paper was received, I beg leave now, before I enter into my argument upon this business, to state in one point of view the whole and complete matter which forms this convention, together with his Catholic majesty's recognition and execution of it.

The Declaration of the Spanish minister states that things shall be restored in the Malouine, at the port called Egmont, precisely to the state in which they were before the 10th of June.

The Acceptance of lord Rochford understands and recites the Declaration as containing terms of a very different and more extensive nature, viz. that prince Masserano does engage that all things shall be immediately restored to the precise situation in which they stood before the 10th of June.

His Catholic Majesty, in his order for the execution of what he calls this convention, recites, that the engagements contained in it, are for the reposition of the island of Great Malouine, in the situation in which it stood before the 10th of June: yet his orders extend only to the restoring of Port and Fort Egmont, with all its ammunition, stores, and appurtenances, just in the terms in which a lawyer would convey a cottage; so that if our court understood that this convention went to engagements for the restoring Falkland's island, which the Spanish minister offered, the convention is not by these orders fulfilled and executed.

This fluctuation of terms and proceedings in the negociation marks not only the true spirit but the wisdom of his Majesty's orders, (which lord Weymouth's letter declares his Majesty would invariably adhere to) that no convention under any conditions should be accepted; and yet the act contained in the two papers, the Declaration and Acceptance, is, both in name and thing a convention entered into by two contracting parties, under conditions ascertained by a protest as to the question of right, and convening in a point to be executed by his Catholic majesty. His Catholic majesty executes it (putting his own interpretation upon it) only in part, by giving those orders which have been now read to you.

The preamble to the order recites, that the convention engages for the reposition or reinstating the island in the precise situation in which it was before the evacuation; and yet the orders given are for the restoring of the fort and port only. The precise situation in which our court must understand it to have been, was, that our establishment extended to the pos-

* From a pamphlet published in 1771, entitled " Two Speeches of an Honourable Gentleman on the late Negotiation and Convention with Spain."

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session, and the sovereignty of the island. The fort therefore should have been restored under that idea; but it is restored under an idea exclusive of both possession and sovereignty.

The convention, by the protest inserted in it, considers the question of right as a matter standing referred, to be hereafter discussed. And the point in which the contracting parties convene at present is, to put all things in such a situation, that they may come to that question, precisely as if no act of hostility had been done. See then how the claim of each party stood before that act of hostility, which drove us from our possessions. We claim a right, from priority of discovery and occupancy. In the exercise of this, his Majesty makes a settlement, and affixes the sovereignty of the imperial crown of Great Britain to it. The Spaniards on the other hand claim under a Papal grant all lands and islands discovered, or that shall be discovered, within general indefinite descriptions of parcels of the globe. If therefore the island is not restored to us under those actual circumstances of possession and sovereignty as we claim it, the supposed possession and sovereignty of the Spaniards, assumed in virtue of an ideal jurisdiction derived from the Pope, must take place; and the question is prejudged. On the other hand, by reinstating the crown of Great Britain* in such possession and sovereignty as it claims to have held, protesting the meanwhile that such reposition or reinstating shall not affect the question of the actual right, as it shall or may be made good, the question would still remain open. But if it shall prove in the event, that the Spanish court will not come to the question of right in this view of it, and that we cannot join issue in the other without betraying our rights, then this business will train on just as all negociations have done, and will end just as all such conventions have ended, not in securing peace, but in giving future occasion for war.

Before I enter into the further stating of this business, I will beg leave to recapitulate how far this House hath already gone in its deliberation on this matter.

His Majesty having been pleased, when the convention was entered into, to lay before this House the two parts of which it consisted—the Declaration of the Spanish minister, and the Acceptance by which his own minister declared he had received satisfaction; his Majesty was then pleased to submit to the consideration of this House, the satisfaction which he had accepted, by the disavowal made, and restitution promised on the part of the Spanish minister.

The honour of the imperial crown of Great Britain being reposed in his Majesty's hands, it is the duty of his faithful subjects to follow his sense of it. They did so unanimously, when he said that it was deeply affected; and they do most anxiously hope that his Majesty may not be disappointed, while he thinks that he has received satisfaction on those points.

A majority of this House, in which, according, to the forms of parliament, the whole House is included, went some steps farther, and expressed their entire satisfaction on the conclusion of this matter: a considerable body of gentlemen, not thinking that they had the opportunity given to them of examining the facts and the nature of the negociation, not considering the business as then concluded, were not able to conceive that satisfaction, which others felt and expressed.

That matter being now decided, and peace between the crowns of Spain and Great Britain being now formally restored; and standing as it does, and as it must do for the future on the basis of this convention, the execution of which is laid before us; it becomes the duty of every member of the community, of every member of this House, to unite their aid and assistance, and advice also where that shall become proper, to give stability, security, and permanency to this foundation. If there be any thing which appears suspicious or defective, either in the ground on which it stands, or in the materials of which it is composed, it becomes a consequence of that duty, to point out that defect, so that it may be repaired before it is too late. It is in this view that I shall offer the consideration of some matters to the House; and it is under these hopes, that with the leave of the House, I shall conclude with a motion that will point the necessity of future attention, in consequence of past neglect.

By the law of nations, all sovereign states are reciprocally responsible to each other for all delegated and subordinate powers deriving from or existing under

* Non ut possideret, sed ut in possessione esset; est autem longe diversum: aliud est enim possidere, aliud in possessionem esse. Pomponius in Digest. 44, lib. 2, § 10.

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their respective sovereignties; they are bound to restrain those subordinate powers, from commencing hostilities on their own opinion, or of their own motion, on any occasion whatsoever, whilst their sovereigns continue in league and amity: without this, peace would be a baseless fabric, a mere vision; or if it had any existence, would exist as a snare to those who acted under it with good faith. We may have heard of treaties with hordes of Tartars or tribes of Indians; under which, individuals think themselves no further bound than as they personally accord; but without this preliminary ground, there cannot be even a supposition of such treaties existing between civilized states. Where one sovereign, acting with good faith, under this principle, is leagued with another sovereign who permits his subordinate governors to act as if unrestrained by the same principle, the subjects of the former would be precluded from using their own natural power of defence; would be denied that protection of their own government which every subject has a right to expect; and unarmed, defenceless, and unprotected, would be betrayed to the caprice and violence of the subjects of the other state. Under such a predicament no rights of possession could be exerted, no actual possession secured, no settlements made, no posts taken for the protection of such rights, possession, and settlements.

This principle is, and of necessity must be the preliminary ground of all treaties between civilized states: but from the special and peculiar situation in which Spain stands with other European nations, relative to its claims in America; from the actual state of war in which the subjects of Spain and of other European nations were engaged in America, prior to such treaties; it became absolutely necessary that this principle should not only be considered as the preliminary ground of treaty, but should be inserted as an actual article in the body of all treaties with Spain, respecting rights and possessions in America. It was found necessary, in order to meet that claim of possession which they set up to the dominion of South America; that claim of right which they set up to an exclusive navigation in the South Seas; in short, to the dominion which they claim over every thing to the southward of the equator, even of land, seas, and territories not yet discovered; except so far as they graciously condescend to admit the Portuguese title to a moiety of this spiritual fee. It has been found necessary, I say, in order to meet and obviate this absurd claim, (exerted in defiance of the rights of mankind, and of the law of nations) that what would be in all other treaties a preliminary, should stand actually articled and stipulated in every treaty which we have had with that court, from the year 1667, to the last peace of Paris.

In the treaty of Madrid 1667, article 3d, you will find it precisely stipulated and agreed, that if any matters of dispute, or any supposition even of injustice or injury shall arise, it shall not be carried to force between the subjects of the sovereigns, but shall be referred to the decision of the sovereigns themselves.

In the treaty of Madrid of 1670, which was concluded for accommodating differences, preventing depredations, and settling peace, between the crowns of Great Britain and Spain; that peace is particularly guarded, that no acts of hostility shall be suffered to be commenced either by any individuals, or any subordinate powers holding under those sovereigns without such violators of the treaty then made being considered as criminals responsible for a crime; bound not only to make restitution and reparation, but to be punished as criminals, according to the nature of the offence; in short, without being considered in every instance as pirates, and not as under the protection of their sovereigns.

The treaty of Utrecht confirms these two treaties, and makes the like provisions.

The treaty of Madrid, of 1721, particularly guards against the contravention or breach of the treaties of peace and commerce, by any of the governors of Spain presuming to act upon their own interpretation thereof.

The treaty of Seville, in 1729, does in like manner particularly provide against all acts of disturbance and hostility in those parts, under the most rigorous prohibition for preventing the same. And the treaty of Paris, in 1763, specially stipulates against any act of hostility being committed by the subjects of the contracting powers, for any cause, or under any pretence whatsoever.

I come now to consider the manner in which, with the best good faith, his Majesty and his ancestors have ever executed those treaties and stipulations; in which,

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with the strictest honour, they have ever governed themselves by the law of nations. In all delegations of power and government, which his Majesty or his ancestors have made to be held, enjoyed, and exercised under charters, there is an express clause whereby the crown of Great Britain binds itself to all Christian princes and states, that it will consider any persons acting under that subordinate authority, who shall commit any violence or hostility, to be out of its protection, until full reparation, to the satisfaction of the injured party, shall be made. In all delegations of power, which his Majesty or his ancestors have made, to be held and exercised immediately under his commission, the powers granted in that commission are restricted, (by instructions agreeable to those articles of peace) against the issuing out commissions of marque and reprisal, or going into any acts of hostility, without the special command of the crown.

Matters standing thus in right, upon the law of nations in general, by particular and specific treaties; and thus executed by the good faith of Great Britain, uniformly at all times maintained; I beg to turn the consideration of the House, to examine how it now stands in fact, on the basis of this late negociation.

The court of Spain has assumed, and does maintain, a right to establish what they call their general laws of America. These laws are founded on the pretensions which they make to a right of dominion to the continent of South America—to the exclusive navigation of the South Seas—and to all lands, islands, and territories, that shall be found therein, or that surround the same.—In short, to the whole southern globe, westward of their line of demarkation. Upon this supposition, they describe in their instruments of government these their supposed dominions as extending over the whole expanse of those climes. They assume it as a fact, that they are in equitable and legal possession of these imaginary and undefined, nay, even not yet discovered possessions; and that their jurisdiction, as contained in their commissions, extends to these indefinite boundaries. For the exercise of this metaphysical sovereignty they have formed laws which they call the established laws of America; and conformable to this jurisdiction and those laws, they give to their governors general powers and instructions of government. While these pretended jurisdictions, these laws, stand maintained in right, and justified in authority; and whilst the common right of mankind, the law of nations, is thus superseded and repealed in those parts; all attempts of discovery in those regions of the globe—all extensions of commerce—all exertions of any right arising from discovery and occupancy—all posts taken—all settlements made, by ourselves or any other European power, must be considered by that court as usurpation on their established rights; as intrusion upon their actual possessions; as invasions of their territories and dominions: and as therefore, the general authorities of the commissions which they grant, extend to all these claims and pretensions, and to the exercise of this supposed jurisdiction, their governors are, by the oaths of their office, and by their general instructions, under obligation to oppose all usurpations; to resist all such intrusions; to repel all such invaders; and to consider the exercise of the common rights of mankind in those regions where they (the Spaniards) claim this exclusive jurisdiction, as acts of criminality; and the actors as criminals. It is under these pretensions, they are instructed to consider and to examine all ships sailing in those parts without a Spanish licence, as contraband and interlopers; and to prohibit them, both in right and by act, from navigating in those parts of the globe.

It was on this ground that Don Buccarelli, the governor of Buenos Ayres, committed hostilities against his Majesty's rights and possessions in Falkland's Island; and it was on this ground that the British flag was most ignominiously insulted. The Spanish governor, directly contrary to special treaties, refused to refer the matter to his sovereign; and maintained his right to consider his Britannic majesty's servants acting immediately under his commission, and exerting a right of possession under the sovereignty of Great Britain, as invaders; and to treat his Majesty's ships of war under the British flag, lying within the possessions, as interlopers.

Thus stands the act of the Spanish governor; done under pretended established laws of America; under the authority of the Spanish commission; under the general instructions. The Spanish court did not only refuse to disavow this act, but has in the late negociation justified it on these very grounds. What they, upon the ground of justice, maintain they had a right to do in general, they condescend, upon the ground of favour, to acknow-

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ledge that they had not given particular orders should be done in this particular instance.

This is the disavowal they have made; and, shame to our negociators! this is the disavowal which we have accepted. We demanded justice—our negociation has lowered us to accept a favour; and that favour is both an insult and a snare.

By suffering the Spanish court to enter this position into any negociation; by convening with them under any such illusory disavowal, our negociators, as far as in them lay, have gone to acknowledge these vain claims; have recognized these rights; and before there is an end of this business, they will find claims and demands founded on this recognition.

His Majesty gave orders, that they should demand a disavowal of the act of the Spanish governor; and declared, he would invariably adhere to that demand. The disavowal ought to have gone to the putting that governor in the predicament of punishment: for, though it were beneath a great nation to exact the actual execution of such punishment, yet it was necessary (in order to obviate, contravene, and destroy these strong pretensions and claims) that that act should be considered as not done or justified under the protection of the crown of Spain, and therefore as an act of criminality. But so far from that, the negociation has permitted the Spanish court to justify this governor in thus commencing hostilities, in execution of his general orders. So that if any new rights or claims should arise, or any new grounds could be given to old, obsolete and rejected pretensions, from the course of this convention, his Majesty's rights and possessions, and the British navigation, would be delivered up exposed to such Spanish claims and pretensions.

To permit the Spanish court to reason upon any such grounds—to admit any such data in negociation—not to obviate, by any contravention or protest, these positions and doctrines, was, as far as was in the power of ministry, in effect to recognize these claims and pretensions—to give up the British right to Falkland's Island—and to disclaim all right in us to make any settlement in those parts; and whatever may be the present ostensible form of the convention, mark well the end—it will end on our part either in the actual cession of the island, or in a gradual dereliction of it. Without some such idea as this; namely, that as soon as reparation is made to our honour for the violent and hostile manner in which we were driven off that island, and as soon as we were put in a situation to evacuate it of our own motion, it is tacitly understood we are to cede it—without some such idea as this, the whole of the negotiation is inexplicable and unintelligible—but taking this line, as going to a matter mutually understood, the whole is plain, definite, and but of one construction.

In like manner, as the immediate operation of this negociation affects our actual settlements already made, so likewise must its effect extend itself to every possession, to every settlement, which by the law of nations we have a right to make.

His Majesty, under a great idea of extending our commerce and navigation, has given orders for the making discoveries in the southern parts of the globe. Discoveries have been made in consequence thereof; and a right of possession affixed thereto, by those rules which the law of nations admits to give such right.

Possession in that form has been taken of land called George's-land. But if the doctrine held out in the late negociation is to be admitted in our diplomatic code, we then have no right to take any such possessions, under such discoveries: the very act of occupancy, which ought to ascertain it, would become an act of invasion and hostility; and our ships, presuming to navigate in those parts, on any such pretence, would become contraband and interlopers.

If this doctrine be admitted, the charter of incorporation granted to the South Sea Company, by which the crown conveyed to it a right of being "sole owners and proprietors of all the islands, forts, towns, and places which they shall hereafter discover within their limits; to hold the same by fealty of the crown of Great Britain, in free and common soccage;" (9 Ann c. §. 50), is *ab initio* a nullity.—The moment that the Spanish court, or any governors acting under it, shall put this pretended Spanish jurisdiction in actual claim, the British right would be annihilated.

By this doctrine (if it be admitted) the charter of the East India Company will also become bounded and restricted by the Spanish claims. A case which I referred to, the other day, when I wished to have the papers respecting it laid upon your table (turning upon this very point) is now in actual agitation: it is the case of the settlement intended to be made

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upon the island of Ballambangan. This island is a dependency of the dominion and sovereignty of Zoolo; and was granted to the East India Company by the sovereign thereof. The Spaniards say, that the sovereign and dominions of Zoolo are dependencies of the province and audience of Manilla. When the East India Company first intended to make a settlement upon some of the islands belonging to some of these dominions, the archbishop and governor of Manilla, in the year 1764, entered a solemn protest against the enterprize, as an intrusion upon the Spanish rights and dominions.

The East India Company have, from that time to this, kept a trading ship in those parts; but, as yet, have not made any actual settlement there. There is an expedition now prepared, and ready within a few days to proceed to take possession of that island, and to make an actual settlement upon it: and I understand that his Majesty's commodore has orders to protect those rights, and that settlement. As in the case of Falkland's island no notice has been taken in Europe, by either the British or Spanish courts, of what has passed between the East India company and governor of Manilla; according to the doctrine held by the court of Spain in the case of Falkland's island, respecting the justification of the governor of Buenos Ayres, the governor of Manilla will be justified in resisting those rights, and in driving the East India Company by force from these possessions.

If he has (as the governor of Buenos Ayres had) a force superior to what his Majesty's commodore and the East India company may have there, the honour of his Majesty's crown, and the rights of his people, will be deeply affected—the honour of the British flag will be again insulted.

If this doctrine be admitted, that the Spaniards have a general right to the dominions of America, except where we can shew a positive right of possession, precisely defined by treaty; the Spanish governors, by the general laws of America thus admitted under the general authority of their commission and instructions thus explained, will consider themselves as having a right to drive us off by force from every place that may be disputed, and to fix on their own parts an actual possession previous to all reference: leaving the British subject to seek future redress, by future negociation. The Spanish governor claims a right to use force—the British subject has no right left, but that of complaint.

Let us now apply this doctrine to the actual case of the boundary of the Floridas. The western limits of West Florida, which now bound upon the Spanish dominions, are, by the 7th article of the peace of Paris, described by a line drawn along the middle of the river Mississippi from its source, to the river Ibberville; and from thence by a line drawn along the middle of that river, and the lakes Maurepas and Ponchartrain, to the sea: and in consequence of that, the French ceded to the crown of Great Britain every thing which they possessed or ought to possess on the left side of the Mississippi; except the town of New Orleans, and the island in which it is situated. I dare say every body who hears me (having been accustomed to take a map the right end upwards,) does understand by the left the western side of the river. But our negociators, who treated with the map the wrong end upwards, understood the eastern to be on the left side of the river.

The commission to the governor of Florida marks the boundary of that province to the westward, by the lake Ponchartrain, the lake Maurepas, and the river Mississippi.—Under these indefinite descriptions, let us consider what the state of this boundary, between the Spanish and British dominions, is.

In the first place, the line of demarkation runs along the river Mississippi, and the river Ibberville; and yet every thing to the left of the Mississippi, except New Orleans and its island, is ceded to Great Britain. There are many other islands on the left of the river Mississippi, which are on the right of this line of demarkation, and which consequently lie between these two lines.—Will any one say that the treaty of Paris does in any definite way ascertain to whom these belong? the commission to the governor takes no notice of them; and yet undoubtedly, by the whole tenor and purport of that treaty, they do belong to Great Britain: they are actually by that treaty ceded to Great Britain; and yet they are, in the language of that treaty, on the right hand side of the line of demarkation; or in the language of common sense, to the westward and southwestward of that line.

Now many cases may arise in which it may become necessary to take post, or make settlements on some of these islands,

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in order to maintain (to the full of our right) the actual exercise and enjoyment of the navigation of the river Mississippi. The moment that we should do so, if such post or settlement should become an object of jealousy to the Spanish governor at New Orleans, he would undoubtedly, under the influence and authority of the doctrine as above explained, resist such settlement, and drive us from such posts, quoting against us our admission of the general orders, supported in the negociation relative to Falkland's island; and leaving us to make out by treaty our precise and actual right to the territory whereon we made such settlements. Are then his Majesty's rights and possessions secured by this late negociation and convention? Are they not, on the contrary, actually exposed, and liable to be disturbed, under these Spanish claims and pretensions?

This doctrine, thus explained, applies in like manner to the eastern boundaries of Florida. His Catholic majesty, by the 20th article of the same treaty, "cedes and guarantees to his Britannic majesty Florida, with all that Spain possesses on the continent of North America, to the east or to the south east of the river Mississippi; and in general every thing that depends on the said country and land, with the sovereignty, property, and possession of all rights acquired by treaties or otherwise, which the Catholic king and crown of Spain have had till now over the said countries, lands, places, and their inhabitants.

There is no doubt but that the purport and spirit of this treaty went to the ceding all islands adjacent to and connected with this province: and yet as the language of this treaty does, in other parts, where islands are ceded, actually mention and specify them; as in the fourth article, where Canada with all its lands, islands, and coasts, and with all that depends on those lands, islands, and coasts, is ceded; can any one say, whether precisely and definitively, the islands, which form the southern point of Cape Florida, are now the actual property of Great Britain?

In like manner, as I said before of the western boundaries of Florida, so I will remark upon these; that many cases may arise wherein it may become peculiarly proper to take posts and make settlements on some of those islands. It is known to all navigators, that to ships coming out of the Gulph of Mexico into the Atlantic, the only passage is through the Gulph of Florida; and that the Havannah, lying on the eastern or south eastern entrance of this Gulph, does in a great measure hold a command over this navigation. There may come times, from various circumstances, when it may be not only proper but even necessary, for the protection of our commerce, and for the maintaining the communication between our provinces, to counteract and guard ourselves against any command which may intercept the free navigation of those seas. Under such circumstances, were we to make any settlements, or take post on any of the islands here referred to, and should the doctrine, held forth by the Spaniards in this negociation, be admitted to influence and operate to the extent to which they claim, the Spanish governor of the Havannah would, in like manner as the governor of Buenos Ayres did, find himself justified under his oath of office, his general instructions, and their established laws of America, in driving us off by force from lands and territories to which we could not make out a defined right of possession.

If this doctrine be admitted that Spain has a general right to the dominions of America, except where we can shew a positive, precise, and defined right of possession; and if this doctrine thus explained is to be applied to our rights in the bay of Honduras, the rights of the British subject dwelling there, for the purpose of cutting logwood, are held under the arbitrary interpretation which a Spanish governor may give to those general laws of America as recognized by this convention, and not under the spirit of the treaties by which we had those rights confirmed to us: and that cause and question which has been so many years agitated, and which was the source of the war of the year 1739, is again (notwithstanding the caution taken in the treaty of Paris) opened to all its mischievous consequences.

The course and dangerous tendency of this negotiation; the claim of an exclusive American navigation to the southward of the equator; the inadmissible pretence that we have no right to sail or navigate in those parts, without the licence and permission of his Catholic majesty, was in all form, both of warning and denunciation, acted upon by the Spanish governor and commander; it was exerted as a right, being neither contravened nor protested against in the negociation: it stands recognized as far as the conduct of our ministers

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could give it force; and that great source of war between the crowns of Great Britain and Spain is therefore by this negociation again laid open in its utmost extent, after having been settled and determined almost a hundred years ago.

If I was asked what answer I would give to those Spanish claims founded on a right at least as good as any other nation can shew, I would not hurt this cause by giving an answer derived from my own opinion, which could have little weight in such a case, but I will hold forth to our present ministers, the language which the British ministry itself, in similar circumstances, found it necessary to hold, and therefore held; and which I believe will be an answer, not only from its authority but from its reason, not very easily refuted: I take it from the memorials that passed between the courts of Great Britain and France, concerning the island of St. Lucie, and it is to this very point, as follows:

It would be a very extraordinary and dangerous doctrine and example, if it should be admitted, that the bare insertion of general words and descriptions of any general latitude, into any instrument of government, should (according to the law of nations) convey to any people a right in all such lands and territories unforeseen and undiscovered by that people at that time, as should afterwards be discovered and settled by other nations in the same latitude. Happily for the peace of mankind the law of nations has provided against such uncertainty by marking out to us what act shall be deemed to be such possession as confers a right.*

If it should be said, that however just my reasoning would be, if the ground whereon I state it did exist in fact, yet that it is in the very ground of it without foundation: that the Spanish government does neither give, nor do we acknowledge them as giving, in this case, any other powers and instructions than what all the British governors have from their sovereign, namely, to oppose intrusion, to remove usurpations, and to repel invasions. I will, in hopes that candour and reason may meet in this argument, mark the essential difference between an instrument of government which is given for the ruling and protecting a right already existing, and an instrument of government formed expressly to create a right. The powers and instructions of the British governors operate only where there is an actual possession founded upon undoubted and acknowledged right; but the powers and instructions of the Spanish governors go to the creating of supposed rights merely by their being inserted in their commission; without any of those acts of discovery and occupancy which the law of nations has fixed as the acts which create a real right. Their instructions go to the exerting of power and force in support of such supposed rights, where there is not, in fact, any actual right at all; or where nothing yet has been done according to the law of nations to take it out of dispute. If the force of this distinction is not acknowledged, then it is not only admitted in negociation, but avowed in debate here also, that the Spanish rights extend to the full extent of their claims, and that their jurisdiction ought in right, as it did in this case in fact, to operate to the full of their powers and instructions; and is rightly founded in the established laws of America.

Upon the whole, his Majesty's ministers having neither objected to, nor contravened; having neither protested against, nor even demanded an explanation of, these claims and pretensions; but having suffered the court of Spain to argue the principle upon which they are built, and to justify their governors in acting under them, these ministers have acknowledged, and submitted to, dangerous positions and destructive doctrines; have exposed, as far as their negociation could do, his Majesty's rights and possessions; and rendered them liable to be disturbed on such pretensions.

If it were in my wishes or intentions to go into matter of crimination, the ground on which this business stands would support me. But in the situation in which this country is, every well-wisher to it will rather aim to prevent or remedy evils, than to inflame the sense of men against them; would rather choose a measure of remedy, which may unite us in the inte-

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* Regulare est, ut occupatio rerum mobilium fiat manibus, rerum soli pedibus, vidisse autem tantum aut scire quid sit, nondum ad possessionem sufficere judicatur.

Puffend. lib. 4. §. 6.

Primus acquirendi modus, qui juris gentium a Romanis dicitur, est occupatio eorum quæ nullius sunt. Grotius, lib. 2. c. 2.

Insula quæ in mari* nata est (quod raró accidit) occupantis sit, nullius enim esse creditur.

Instituti. lib. tit. 1. §. 22.

* Priority of discovery makes the same case.

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rest of our country, than any thing which is vindictive, that would divide and distract. The motion therefore which I shall take the liberty to make, marking the defect, points solely to the remedy, is,

"That in the late Negociation with the court of Spain concerning Falkland's island, his Majesty's ministers, having neglected to demand an explanation of the oath of office taken by the Spanish governors in America, their general orders, and the established laws of America, under which these governors pretend to act, and under which the court of Spain doth pretend to justify them in commencing hostilities; his Majesty's rights and possessions in America remain thereby exposed and liable to be disturbed by the said governors, under pretence of such oath of office, their general orders, and the established laws of America."

Mr. *Damer* seconded the motion, by observing, that the gentlemen who could not join in the Address of satisfaction upon the late negociation, did not wish for war; but anxious for an honourable, safe and lasting peace, and thinking both the honour of the crown, and the rights of the nation deeply affected by the dishonourable and dangerous conditions which the ministers had submitted this country to, by this convention, could not but express their utter disapprobation of it. And although they could never rest satisfied with, or think the nation and its rights secure under this convention, yet they wished, and would most studiously unite to render peace as secure as possible, by doing every thing in their power to rectify and remedy its defects; and that as he was convinced, on how dangerous a ground it now stood, standing on the rotten basis of this convention, he could not but join in marking out that danger, and wished it to be marked by this House, in the resolution proposed, that it might turn the eyes of the ministers, in whose hands the business now was, to some remedy; and added, that if, in the progress of this business, they should still continue to neglect this, it would become necessary for the House to apply, by an address to his Majesty, and to pray him to give his directions to them for that purpose.

Mr. *Wood*, imagining that that official part of ministry in which he had acted under lord Weymouth was arraigned, rose up to justify the proceedings of that office, and confined himself chiefly to that point; but entered not into the question. The ministers sat silent. The friends of ministry calling for the question, the Speaker rose up to put it.

Mr. *Dowdeswell* here rose, and congratulated the House that it was going to give an unanimous consent to so proper a resolution; for as nothing was objected to it, he must suppose they assented to it. But if, on the contrary, they meant to give a negative, he called upon them, either to deny the facts, to refute the argument, or show that the conclusion was not fairly and truly deduced. He then, for their information, and to point their judgment, recapitulated the principal parts of the argument.—The ministers persevered in silence; but

Mr. *Charles Fox* rose and said, that the argument was just, and the conclusion right, if the facts on which it was grounded were true; but there was no such fact in existence, as that the Spanish court did refuse to blame their governor, or did justify him, as acting under the established laws of America, his oath of office, or his general orders; and took the part to assert, that the court of Spain disavowed their governor.

Mr. *T. Townshend* reminded him, that they refused to disavow their governor, but justified him, and put his justification on the established laws of America, and his general orders; that our ministry acquiesced in this ground, and took the satisfaction on their disavowing, that they ever gave any particular orders about this particular expedition. He then desired them to remember, that instead of being disavowed, he was approved, honoured, and rewarded.

After some further debate, the House divided: the Yeas went forth.

	Tellers.	
Yeas	Mr. T. Townshend, jun. / Mr. Damer - - - -	43
Noes	Mr. Charles Fox - - / Mr. Cooper - - -	130

So it passed in the negative.

END OF VOL. XVI.

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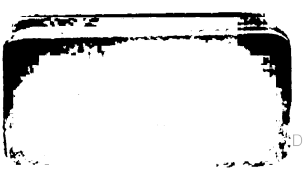
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